

VIRGINIA CERTIFIED HOME INSPECTORS REGULATIONS

The Virginia Board for Asbestos, Lead, and Home Inspectors invites written comments on the Proposed Regulations for Certified Home Inspectors (18 VAC 15-40 et.seq.). Send written comments, which must be received no later than 5 PM on October 11, 2002, by mail to DPOR, Home Inspectors Regulations Public Comment, 3600 West Broad Street, Richmond, VA 23230; by fax to (804) 367-6128; or by e-mail to asbestos@dpor.state.va.us.

Oral comments are also invited on the above-referenced Proposed Regulations during a Public Hearing at 10:00 AM on October 8, 2002 at DPOR's offices located at 3600 West Broad Street, Fifth Floor, Richmond, Virginia 23230.

The proposed regulations establish entry, renewal, and reinstatement requirements for certification by the Board for a voluntary certification program for home inspectors established by House Bill 2174 of the 2001 Session of the Virginia General Assembly. The proposed regulations also establish minimum standards for conducting certified home inspections as well as standards for conduct and practice.

CHAPTER 40

PART I.

GENERAL.

18 VAC 15-40-10. Definitions.

The following words and terms, when used in this chapter, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

“Board” means the Virginia Board for Asbestos, Lead, and Home Inspectors.

“Certificate holder” means any person, holding a valid certificate as a certified home inspector issued by the board.

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“Certification” means an authorization issued to an individual by the board to perform certified home inspections by meeting the entry requirements established in these regulations.

“Client” means a person who engages or seeks to engage the services of a certified home inspector for the purpose of obtaining an inspection of and a written report upon the condition of a residential building.

“Compensation” means the receipt of monetary payment or other valuable consideration for services rendered.

“Component” means a part of a system.

“Contact hour” means 50 minutes of participation in a structured training activity.

“Department” means the Department of Professional and Occupational Regulation.

“Fireplace” means an interior fire resistant masonry permanent or prefabricated fixture which can be used to burn fuel, and is either vented or unvented.

“Foundation” means the base upon which the structure or a wall rests; usually masonry, concrete, or stone, and generally partially underground.

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“Function” means the action for which an item, component or system is specially fitted or used, or for which an item, component or system exists.

“Inspect or inspection” means to visually examine readily accessible systems and components of a building established in this chapter.

“Readily accessible” means available for visual inspection without requiring moving of personal property, dismantling, destructive measures, or any action which will likely involve risk to persons or property.

“Reinstatement” means having a certificate restored to effectiveness after the expiration date has passed.

“Renewal” means continuing the effectiveness of a certificate for another period of time.

“Residential building” means, for the purposes of home inspection, a structure consisting of one to four dwelling units used or occupied, or intended to be used or occupied, for residential purposes.

“Solid fuel burning appliances” means a hearth and fire chamber or similarly prepared place in which a fire may be built and which is built in conjunction with a chimney; or a listed assembly of a fire chamber, its chimney and related factory-made parts designed for

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unit assembly without requiring field construction.

“Structural component” means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).

“System” means a combination of interacting or interdependent components, assembled to carry out one or more functions.

Terms not defined in this chapter have the same definitions as those set forth in § 54.1-500 of the Code of Virginia.

PART II.

ENTRY REQUIREMENTS.

18 VAC 15-40-20. Necessity for certification.

Any person who holds himself out as, or uses the title of “certified home inspector,” or conducts or offers to provide a “certified home inspection” shall have a current and valid certificate issued by the board. Nothing in this chapter shall be construed to preclude individuals from performing home inspections for hire provided their conduct is in compliance with § 54.1-517.1 of the Code of Virginia.

18 VAC 15-40-30. Qualifications for certification.

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Every applicant for an individual home inspector certificate shall have the following qualifications:

1. The applicant shall be at least 18 years old.

2. The applicant shall meet the following educational and experience requirements:
 - a. High school diploma or equivalent, and

 - b. One of the following:
 - (1) Completed 35 contact hours of classroom instruction from a board-approved course(s) and have completed a minimum of 100 home inspections, or

 - (2) Completed 70 contact hours of classroom instruction from a board-approved course(s) and have completed a minimum of 50 home inspections.

Board-approved instruction courses shall cover the content areas of the board-approved examination(s).

An applicant who cannot fulfill the classroom instruction requirement as outlined in

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this subsection may substitute a minimum of ten years experience as a home inspector to satisfy this requirement. The experience substitution is subject to board review and approval.

3. The applicant shall have passed a written competency examination approved by the board.
4. The board may for a period of five years from [the effective date of the regulations] accept proof of membership in good standing, in a national or state professional home inspectors association, as satisfaction of subsection 1, 2, and 3 of this section.
5. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a home inspector in such a manner as to safeguard the interests of the public.
6. The applicant shall disclose whether a certificate or license as a home inspector from any jurisdiction where certified or licensed has ever been suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for certification in Virginia. The board may deny certification to any applicant so disciplined after examining the totality of the circumstances.

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7. Subject to the provisions of § 54.1-204 of the Code of Virginia, the applicant shall disclose any conviction or finding of guilty, regardless of adjudication in any jurisdiction of the United States of any misdemeanor involving violence, repeat offenses, multiple offenses, and/or crimes which endangered public health or safety, or of any felony, there being no appeal pending therefrom or the time for appeal having elapsed. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of residential home inspections. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. A certified copy of a final order, decree, or case decision by a court with the lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or guilt.

8. The applicant shall follow all procedures established by the board or the testing service with regard to conduct at the examination. Such procedures shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board or the testing service with regard to conduct at the examination shall be grounds for denial of the application.

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9. Applicants shall show evidence of having obtained general liability insurance with minimum limits of \$250,000.

18 VAC 15-40-40. Conflict of interest.

A. The certificate holder shall not:

1. Design or perform repairs or modifications to a residential building on which he has performed a certified home inspection;
2. Refer his client to another party to make repairs or modifications to a residential building on which he has performed a certified home inspection;
or
3. Represent any of the parties to the transfer or sale of a residential building on which he has performed a certified home inspection.

B. The certificate holder shall not disclose any information concerning the results of the certified home inspection without the approval of the client for whom the certified home inspection was performed.

C. The certificate holder will not accept compensation, financial or otherwise, from

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more than one interested party for the same service on the same property without the consent of all interested parties.

- D. The certificate holder shall not accept nor offer commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with work for which the certificate holder is responsible.
- E. The certified home inspection shall not be used as a tool by the certificate holder to solicit or obtain work in another field.

18 VAC 15-40-50. Waiver of the requirements of this chapter.

Except as required by law, the board may, in its reasonable discretion, waive any of the requirements of this chapter when in its judgement it finds that the waiver in no way lessens the protection provided by this chapter and Title 54.1 of the Code of Virginia to the public health, safety and welfare. The burden of proof which demonstrates continued public protection rests with the individual requesting the waiver. Documents referenced are in effect as they existed as of the date the act or action has occurred.

18 VAC 15-40-60. Application fees.

- A. All application fees for certificates are nonrefundable and the date of actual receipt by the board or its agent is the date which will be used to determine

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whether it is timely received.

- B. The fee for an initial application for Certified Home Inspector shall be \$25.

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PART III.

RENEWAL AND REINSTATEMENT OF CERTIFICATE.

18 VAC 15-40-70. Renewal Required.

Certificates issued under this chapter shall expire two years from the last day of the month in which they were issued, as indicated on the certificate.

18 VAC 15-40-80. Qualification for renewal.

- A. As a condition of renewal, all certified home inspectors shall be required to affirm that they continue to maintain insurance as required by 18 VAC 15-40-30 of this chapter. Failure to maintain the required insurance as directed by the board will result in the certification not being renewed and/or disciplinary action pursuant to this chapter.

- B. Each certificate holder desiring to renew the certificate shall return to the board the renewal application form and the appropriate fee as outlined in 18 VAC 15-40-110 of this chapter.

18 VAC 15-40-90. Procedures for renewal.

The board will mail a renewal application form to the certificate holder at the last known

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home address. These notices shall outline the procedures for renewal. Failure of the board to mail or of the certificate holder to receive these notices does not relieve the certificate holder of the obligation to renew.

18 VAC 15-40-100. Failure to renew; reinstatement required.

- A. If the requirements for renewal of a certificate, including receipt of the fee by the board, are not completed by the certificate holder within 30 days of the expiration date noted on the certificate, a late renewal fee shall be required in addition to the renewal fee.

- B. If the requirements for renewal of a certificate, including receipt of the fee by the board, are not completed by the certificate holder within six months of the expiration date noted on the certificate, a reinstatement fee shall be required.

- C. All applicants for reinstatement shall meet all requirements set forth in 18 VAC 15-40-30 of this chapter.

- D. A certificate may be reinstated for up to two years following the expiration date with payment of the reinstatement fee. After two years, the certificate shall not be reinstated under any circumstances and the applicant shall apply as a new applicant, requiring the applicant to retake the examination.

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- E. The certificate holder who reinstates his certification shall be regarded as having been continuously certified without interruption. Therefore, the certificate holder shall remain under the disciplinary authority of the board during this entire period and shall be held accountable for his activities during this period.

18 VAC 15-40-110. Fees for renewal and reinstatement.

- A. All fees for renewal and reinstatement are nonrefundable, and the date of actual receipt by the board or its agent is the date which will be used to determine whether it is timely received.

- B. Renewal and reinstatement fees are as follows:

<u>Renewal Fee</u>	<u>\$25</u>
<u>Late Renewal Fee</u>	<u>\$25</u>
<u>Reinstatement Fee</u>	<u>\$100</u>

18 VAC 15-40-120. Board discretion to deny renewal or reinstatement.

- A. The board may deny renewal or reinstatement of a certificate for the same reasons as it may refuse initial certification or discipline a current certificate holder.
- B. The board may deny renewal or reinstatement of a certificate if the applicant has

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not met the terms of an agreement for certification or not fully paid monetary penalties, satisfied sanctions and paid costs imposed by the board, plus any accrued interest.

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PART IV.

MINIMUM STANDARDS FOR CONDUCTING
CERTIFIED HOME INSPECTIONS

18 VAC 15-40-130. Certified home inspection contract.

- A. For the protection of both the client and the certificate holder, both parties shall sign a legible written contract clearly specifying the terms, conditions, and limitations of the work to be performed.
- B. At a minimum, the written contract shall include:
1. Name, business name (if applicable), business address, and telephone number of the certified home inspector.
 2. Certificate number and expiration date of the certified home inspector.
 3. Name, address, and telephone number of the client(s).
 4. Physical address of the residential property(s) to be inspected.
 5. Cost and method of payment of the certified home inspection.

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6. A listing of all areas, systems, and components to be inspected, including those inspections which are either partial or limited in scope.

7. To the extent that any of the following categories are not covered by the home inspection, they shall be noted as exclusions from the inspection contract:
 - a. The condition of systems or components which are not readily accessible.

 - b. The remaining life of any system or component.

 - c. The strength, adequacy, effectiveness, or efficiency of any system or component.

 - d. The causes of any condition or deficiency.

 - e. The methods, materials, or costs of corrections.

 - f. Future conditions including, but not limited to, failure of systems and components.

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- g. The suitability of the property for any specialized use.

- h. Compliance with regulatory requirements (codes, regulations, laws, ordinances, etc.).

- i. The market value of the property or its marketability.

- j. The advisability of the purchase of the property.

- k. The presence of diseases harmful to humans or potentially hazardous plants or animals including, but not limited to, wood destroying organisms.

- l. The presence of any environmental hazards including, but not limited to, toxins, carcinogens, noise, and contaminates in soil, water, and air.

- m. The effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances.

- n. The operating costs of systems or components.

- o. The acoustical properties of any system or component.

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To the extent any other items are not specifically included in the home inspection by agreement of the parties, they shall also be noted as exclusions in the inspection contract.

8. Expected delivery date to the client of the certified home inspection report.

9. Dated signatures of both the certified home inspector and the client.

C. The certified home inspection contract shall make written disclosure that the certified home inspection report is based upon visual observation of existing conditions of the inspected property at the time of the inspection and is not intended to be, or to be construed as, a guarantee, warranty, or any form of insurance.

18 VAC 15-40-140. Certified home inspection report.

A. Certified home inspection reports shall contain the name, business address and telephone number of the certificate holder as well as his certificate number and expiration date.

B. Name, address, and telephone number of the client(s).

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- C. Physical address of the residential property(s) inspected.

- D. Date, time (to include both start and finish times), and weather conditions at the time of the certified home inspection.

- E. In conducting a certified home inspection and reporting its findings, the certified home inspector, at a minimum, shall inspect the condition of and describe the composition/characteristics of the following components, except as may be limited in the certified home inspection contract agreement:
 - 1. Structural System
 - a. Foundation.
 - b. Framing.
 - c. Stairs.
 - d. Crawl space, unless restricted by the dimensions of the area.
 - e. Crawl space ventilation and vapor barriers.
 - f. Sump pump, when present.
 - g. Slab floor, when present.
 - h. Floors, ceilings, and walls.

 - 2. Roof Structure, Attic, and Insulation

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- a. Roof covering.
 - b. Roof ventilation.
 - c. Roof drainage system, to include gutters and downspouts.
 - d. Roof flashings.
 - e. Skylights, chimneys, and roof penetrations, but not antennae or other roof attachments.
 - f. Roof framing, sheathing, and decking.
 - g. Attic, unless area is inaccessible due to size or condition of structure.
 - h. Attic insulation and ventilation.
3. Exterior of Dwelling
- a. Wall covering, flashing, trim, and protective coatings.
 - b. All doors and windows, but not the operation of associated security locks, devices, or systems.
 - c. Attached decks, balconies, stoops, steps, porches, carports, and any associated railings, but not associated screening, shutters, awnings, storm windows, or storm doors.
 - d. Eaves, soffits, and fascias where accessible from ground level.
 - e. Walkways, grade steps, patios, and driveways, but not fences or privacy walls.
 - f. Vegetation, trees, grading, drainage, and any retaining walls that

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may affect the dwelling.

- g. Visible exterior portions of chimneys.

4. Interior of Dwelling

- a. Every interior wall, ceiling, and floor of dwelling and any attached garage.
- b. Steps, stairways, railings, and balconies.
- c. Countertops and installed cabinets, including hardware.
- d. All doors and windows, including hardware.
- e. Garage doors and garage door operators.
- f. Fireplaces, including flues, venting systems, hearths, dampers, and fireboxes, but not mantles, fire screens and doors, seals and gaskets.
- g. Solid fuel burning appliances if applicable.

5. Plumbing System

- a. Interior water supply and distribution systems, including water supply lines and all fixtures and faucets, but not water conditioning systems or fire sprinkler systems.
- b. Water drainage, waste, and vent systems, including all fixtures.
- c. Drainage sumps, sump pumps, and related piping.

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- d. Water heating equipment, including heat energy source and related vent systems, flues, and chimneys, but not solar water heating systems.
- e. Fuel storage and distribution systems.

6. Electrical System

- a. Service drop.
- b. Service entrance conductors, cables, and raceways.
- c. Service equipment and main disconnects.
- d. Service grounding.
- e. Interior components of service panels and sub panels, including feeders.
- f. Conductors.
- g. Overcurrent protection devices.
- h. All installed lighting fixtures, switches, and receptacles.
- i. Ground fault circuit interrupters.
- j. Presence or absence of smoke detectors.
- k. Presence of solid conductor aluminum branch circuit wiring.

7. Heating System

- a. Heating equipment, including operating controls, but not heat

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exchangers, gas logs, built-in gas burning appliances, grills, stoves, space heaters, solar heating devices, or heating system accessories such as humidifiers, air purifiers, motorized dampers, and heat reclaimers.

- b. Energy source.
- c. Heating distribution.
- d. Vent systems, flues, and chimneys, including dampers.

8. Air Conditioning System

- a. Central and window air conditioning equipment.
- b. Operating controls, access panels, and covers.
- c. Energy source.
- d. Cooling distribution.

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PART V.

STANDARDS OF CONDUCT AND PRACTICE

18 VAC 15-40-150. Grounds for disciplinary action.

The board has the power to fine any certificate holder and to suspend or revoke any certificate issued under the provisions of Chapter 5 (§ 54.1-500 et seq.) of Title 54.1 of the Code of Virginia, and this chapter, where the certificate holder has been found to have violated or cooperated with others in violating any provision of Title 54.1, Chapter 1, 2, 3, or 5 of the Code of Virginia or this chapter.

18 VAC 15-40-160. Maintenance of certificates, reports, and documentation.

- A. Certificate holders shall at all times keep the board informed of their current home address. Changes of address shall be reported to the board in writing within 30 calendar days after such change. A physical address is required; a post office box is not acceptable. The board shall not be responsible for the certificate holder's failure to receive notices, communications and correspondence caused by the certificate holder's failure to promptly notify the board of any change of address.

- B. Certificate holders shall notify the board in writing of a name change within 30 calendar days of any change in the certificate holder's legal name. Such notification shall be accompanied by a copy of a marriage certificate, divorce

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decree, court order or other documentation which verifies the name change.

- C. Certificate holders shall retain all records pertaining to certified home inspections performed to include, but not limited to, written reports and supporting documentation for a period of three years from the date of the related certified home inspection.

18 VAC 15-40-170. Provision of records to the board.

A certificate holder shall, upon demand, produce to the board or any of its agents any written reports and supporting documentation concerning any certified home inspection in which the certificate holder was involved, or for which the certificate holder is required to maintain records for inspection and copying by the board or its agents.

18 VAC 15-40-180. Response to inquiry of the board.

A certificate holder shall respond to an inquiry from the board or any of its agents within 21 days.

18 VAC 15-40-190. Unworthiness and incompetence.

Actions constituting unworthy and incompetent conduct include:

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1. Obtaining a certificate by false or fraudulent representation.

2. Performing improvements or repairs to a residence within twelve months before or after performing a certified home inspection.

3. Violating or inducing another person to violate any of the provisions of Chapters 1, 2, 3, or 5 of Title 54.1 of the Code of Virginia or this chapter.

4. Subject to the provisions of § 54.1-204 of the Code of Virginia, having been convicted or found guilty, regardless of adjudication in any jurisdiction of the United States of any misdemeanor involving violence, repeat offenses, multiple offenses, and/or crimes which endangered public health or safety, or of any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. A certified copy of a final order, decree, or case decision by a court with the lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or guilt.

5. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty, regardless of adjudication in any jurisdiction of the United States of any misdemeanor involving violence, repeat offenses, multiple offenses, and/or crimes which endangered public health or

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safety, or of any felony, there being no appeal pending therefrom or the time for appeal having elapsed.

6. Failing to act as a certificate holder in such a manner as to safeguard the interests of the public.

7. Engaging in improper, fraudulent, or dishonest conduct in conducting a certified home inspection.

8. Having been found guilty by the board, an administrative body, or by any court of any misrepresentation in the course of performing home inspections.