



THE WASHINGTON HOME INSPECTORS LEGISLATIVE ADVISORY GROUP

February 12, 2007

RESPONSE TO SENATE BILL 5788

In January of 2006, a group of Washington home inspectors met in Seattle to discuss immediate legislative issues. Specifically, the group met in response to a Washington State inspector licensing bill (SB6229), sponsored by Senators Harriet Spanel and Jeanne Kohl-Welles in 2006.

The Washington Home Inspectors Legislative Advisory Group is made up of Washington State professional home inspectors and/or owners and officers of home inspection businesses. Members are variously affiliated with the major home inspector associations, franchises, and include independent home inspectors.

Some of the members of the group are in favor of licensing; others are not. However, all agree that licensing, in some form, is inevitable. This group has set about the task of developing a Standards of Practice, Code of Ethics, and additional work product, by studying the associations' various standards, soliciting input from our fellow inspectors, and considering the geographical and demographic issues throughout our state. It has been our goal to create a product that is consumer protection oriented, reflects the knowledge and experience of those of us who work in the profession, and enhances our profession.

The following points address areas of SB 5788 that we believe merit further consideration:

QUALIFICATIONS FOR LICENSURE

• Point 1 - Regarding Parallel, On-Site Home Inspections

The Bill States: Perform twenty parallel, on-site home inspections under the supervision of a licensed home inspector. The licensed home inspector may not charge a fee for the supervision.

We Recommend: *Perform 30 parallel, on-site, and fully supervised home inspections with a licensed home inspector who is performing a fee-paid home inspection as defined by the Standards of Practice. And, we recommend allowing inspectors to be compensated for providing supervision during parallel inspections.*

Rationale: The parallel inspections are a critical part of a candidate's training; As presented in the Bill, the criteria will not achieve the intent of the law. And, there will be little incentive for inspectors to mentor candidates without the right to ask a fee.

GRANDFATHER CLAUSE

• Point 1 - Regarding Qualifications for Grandfathering

The Bill States: ... any person who has been actively engaged in conducting home inspections for at least two years and who has conducted at least one hundred home inspections may apply to the board for initial licensure without meeting the examination or instruction requirements of this chapter.

We Recommend: *Home inspectors currently practicing in the state of Washington must register with the governing board within one year of the establishment of the regulation. Established inspectors will be required to pay the initial registration fee, but will not have to meet the new education and mentoring requirements. Established inspectors will be required to provide proof of having been in the business of home inspecting for at least three years (by providing appropriate documents); and proof of having performed at least 250 full and complete home inspections as defined by the Standards of Practice; and proof of having taken and passed one of the nationally recognized, psychometrically evaluated, and legally defensible home inspectors' exams as approved by the RCW.*

Rationale: Our recommendation reflects the major associations' established level of competency to satisfy membership requirements.

LICENSING BOARD

• Point 1 - Board Makeup

The Bill States: A state home inspector licensing board is created consisting of eight members appointed by the director of DOL. Of the eight members, four must be actively engaged as home inspectors immediately before their appointment to the board; two must be licensed real estate agents; one must be currently teaching in a home inspector certification program; and one must be a member of the general public.

We Recommend: *The board will be made up of seven members; six home inspectors and one member-at-large.*

Rationale: It is not unusual for governing boards to be made up primarily of professionals in their industry. While real estate agents and inspectors both work with buyers and sellers of real estate, it should be noted that a conflict of interest is often perceived between the two professions. In addition, having a currently teaching inspector on a board that determines the qualifications or certification of the required courses, is also a serious conflict of interest.

• Point 2 - Board Qualifications

The Bill States: A home inspector must have the following qualifications to be appointed to the board: (1) five years experience as a home inspector in Washington; (2) licensed as a home inspector in this state; and (3) has performed 250 home inspections in this state.

We Recommend: *Credentials of board member home inspectors include: (1) must have at least seven years of experience as a home inspector in the state of Washington; (2) must meet current state licensing requirements; and (3) must have performed 1,000 home inspections as defined in the current RCW.*

Rationale: We believe seven years and 1,000 home inspections more realistically define an experienced full-time home inspector, and qualifies her or him for a position on a state governing board.

WRITTEN EXAMS

• Point 1 - Exam Definition

The Bill States: The scope of the exam is directed to an applicant's ability to conduct a home inspection in a manner to ensure the safety of life, health and property.

We Recommend: *A candidate must pass a valid, reliable examination designed to test competence in home inspection practice, developed pursuant to accepted psychometric standards promulgated by the American Educational Research Association's "Standards for Educational and Psychological Testing", the Equal Employment Opportunity Commission's "Uniform Guidelines for Employee Selection Procedures", the Civil Rights Act of 1991, the Americans with Disabilities Act of 1990, and similar applicable standards. The examination may have been passed before the effective date of this Act.*

Rationale: The bill's definition too loosely defines the characteristics of an exam. The group's recommended type of exam is a recognized professional standard, and helps to ensure an equality in testing.

CONTINUING EDUCATION REQUIREMENTS

• Point 1 - Credit Hours

The Bill States: Before a home inspection license will be renewed, the applicant must present satisfactory evidence that he or she has completed 20 hours of instruction annually in courses approved by the board.

We Recommend: *Each applicant for license renewal shall complete at least forty hours of instruction in courses approved by the board within the license period.*

Rationale: An inspector may not be able to meet the annual twenty hour requirement due to reasons beyond his or her control. However, requiring forty hours within two years allows for an inspector to meet the same license period requirement for education, but offers some leeway within the period.

INVESTIGATION OF COMPLAINTS

The Bill States: A person who files a complaint under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint.

We Recommend: *Removing this immunity from the section.*

Rationale: Frivolous complaints brought against an inspector due to a disgruntled home owner, unhappy real estate agent, or jealous competitor, as examples, may be encouraged if this immunity is offered. Someone wrongly accused of unprofessional conduct should not be denied legal recourse.

PEST INSPECTIONS

• Point 1 - WDO Components

The Bill States: WSDA and DOL must determine the best method by which to transfer the structural pest inspection program from WSDA to DOL and report back to the Legislature with recommendations no later than December 15, 2007.

We Recommend: *A home inspector will identify damage to a structure, or conditions that may be conducive to causing damage to a structure, where the damage has been caused by wood destroying organisms. The home inspector will recommend further evaluation, and appropriate treatment or correction by a pest control operator or appropriate contractor or specialist as indicated by the condition or damage.*

Rationale: We contend that it is important that a home inspection include identification of damage caused by wood destroying organisms. Just as it is important to identify structural, electrical, HVAC, and other system anomalies, and to call for the appropriate specialist to evaluate and/or correct the identified condition. We agree that education about WDOs is one important area, along with many others, as part of a home inspector's training and continuing education curriculum. We believe that the Department of Licensing, in cooperation with a home inspectors' governing board, can meet the licensing requirements for home inspectors without the necessity of a structural pest inspection program.

ADDITIONS TO THE BILL

• Point 1 - Limit of Liability

The Bill States: No mention of Limits of Liability.

We Recommend: *The limit of liability for a home inspector shall be one year from the date of the home inspection.*

Rationale: Most complaints and claims are made within the first year following a home inspection. Because of the visual limitations of a standard home inspection, and the limited amount of time the home inspector spends in a dwelling, we believe a year is a fair and realistic limit for liability.

• Point 2 - Pre-Inspection Agreement Requirement

The Bill States: No mention of Pre-Inspection Agreement Requirement.

Our Recommendation: *The home inspector will provide a pre-inspection agreement to the client, that defines the scope of services, disclaimers, fee for services, and other pertinent information regarding the inspection.*

Rationale: A pre-inspection agreement is in the best interest of the consumer and the home inspector because it defines in writing, the services to be provided, services that will not be provided, the fee for services, and other information that will help to foster a successful transaction.