

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S3/13/01 S4/5/01

A Bill

SENATE BILL 634

5 By: Senator Bisbee
6 By: Representative Jackson
7
8

For An Act To Be Entitled

9
10 AN ACT TO *AMEND AND TO REPEAL VARIOUS SECTIONS OF*
11 *ARKANSAS CODE TITLE 17, CHAPTER 52, SUBCHAPTERS 1*
12 *AND 2, CONCERNING THE REGISTRATION OF HOME*
13 *INSPECTORS; AND FOR OTHER PURPOSES.*
14

Subtitle

15
16 TO *AMEND AND REPEAL* ARKANSAS LAW REQUIRING
17 THE REGISTRATION OF HOME INSPECTORS.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 *SECTION 1. Arkansas Code § 17-52-102 is amended to read as follows:*
23 *17-52-102. Definitions.*

24 *For the purpose of this chapter:*

25 *(1) "Home inspector" means a person who engages in the business of*
26 *performing home inspections for compensation and, who, in the pursuit of that*
27 *independent business, undertakes or offers to undertake, or submits a bid to,*
28 *or contracts or undertakes to inspect, or assumes charge, in a supervisory*
29 *capacity or otherwise, or inspects the condition of a private residence on*
30 *behalf of another person.*

31 *(2) "Home inspection" means a physical examination of a home made to*
32 *identify visible defects or conditions that may adversely affect the function*
33 *and integrity of the items, components, and systems inspected, or the health*
34 *or safety of the occupants of the residence. Such inspections may include*
35 *ancillary buildings.*

36 *(3) "Home or residence" means any dwelling, from one (1) to four (4)*

1 units in design intended principally for residential purposes by one (1) or
2 more individuals.

3 (4) "Person" means any natural person.

4 (5)(A) "Competency Examination" means a written examination to
5 establish whether an applicant possesses an adequate level of knowledge of home
6 inspection procedures and components.

7 (B) The examination shall be the National Home Inspectors
8 Examination.

9 (6) "National Home Inspector Examination" means the National Home
10 Inspector Examination as prepared by Columbia Assessment Services, Inc, as
11 exists on January 1, 2001.

12 ~~(5) "Equivalent professional home inspector association" means a~~
13 ~~professional association determined as equivalent to the American Society of~~
14 ~~Home Inspectors, or the Arkansas Association of Real Estate Inspectors by the~~
15 ~~Secretary of State and also approved by a majority of the home inspectors~~
16 ~~registered under this chapter at the time the determination is made.~~

17 ~~(6) "Home inspection report" means a written report prepared for a fee~~
18 ~~and issued by a home inspector after a home inspection. The report clearly~~
19 ~~describes and identifies the inspected systems, structures, or components of~~
20 ~~the dwelling, any defects identified, and any recommendations regarding the~~
21 ~~conditions observed or recommendations for evaluation by appropriate persons.~~

22
23 SECTION 2. Arkansas Code § 17-52-103 is amended to read as follows:
24 17-52-103. Application for registration.

25 (a) A person applying for registration, or renewal of registration, as
26 a home inspector shall submit an application, under oath, upon a form to be
27 prescribed by the Secretary of State which shall include as a minimum, the
28 following information pertaining to the applicant:

29 (1) The name and address under which the applicant conducts
30 business, if an individual proprietorship; the name and address of each
31 partner or venturer, if the applicant is a party to a partnership or joint
32 venture; or the name and address of the corporate officers and statutory agent
33 for service, if the applicant is an employee of or party to a corporation.

34 (2) A certificate issued by an insurance company licensed, or
35 surplus lines approved, to do business in the State of Arkansas that the
36 applicant has procured ~~general~~ errors and omissions liability insurance in the

1 minimum amount of ~~one hundred thousand dollars (\$100,000)~~ two hundred thousand
 2 dollars (\$200,000); and, if applicable, workers compensation insurance
 3 coverage.

4 ~~(3) Evidence of one (1) of the following professional~~
 5 ~~qualifications:~~

6 ~~(A) Membership or candidacy in, and adherence to the~~
 7 ~~Standards of Practice and Code of Ethics of the American Society of Home~~
 8 ~~Inspectors, Inc. (ASHI), the Arkansas Association of Real Estate Inspectors~~
 9 ~~(AAREI), or an equivalent professional home inspection association. Persons in~~
 10 ~~candidate status must provide evidence of having successfully completed the~~
 11 ~~respective professional association's certification examination.~~

12 ~~(B) A high school diploma or its equivalent, work~~
 13 ~~experience doing home inspections for at least one (1) year under the direct~~
 14 ~~supervision of a registered home inspector, and completion of one hundred~~
 15 ~~(100) home inspections for compensation.~~

16 ~~(C) Current professional registration in Arkansas as an~~
 17 ~~architect, architectural engineer, mechanical engineer, or structural~~
 18 ~~engineer.~~

19 ~~(D) A high school diploma or its equivalent, work~~
 20 ~~experience doing home inspections for at least one (1) year, completion of at~~
 21 ~~least twenty (20) home inspections for compensation, and successful completion~~
 22 ~~of at least ninety (90) core hours of a real estate inspection education~~
 23 ~~program.~~

24 ~~(4)(3) Evidence of a positive net worth or a A surety bond~~
 25 ~~payable to the Secretary of State in the amount of ten thousand dollars~~
 26 ~~(\$10,000).~~

27 (4) Proof of passage of the National Home Inspector Examination
 28 as provided by the testing service.

29 (b) The information contained in an application shall be a matter of
 30 public record and open to public inspection.

31
 32 SECTION 3. Arkansas Code § 17-52-104 is amended to read as follows:

33 17-52-104. Certificates of registration.

34 Certificates shall be consecutively numbered by the Secretary of State.

35 Certificates shall be issued to applicants upon the applicants' compliance
 36 with the registration requirements of this chapter. ~~All applications for~~

1 ~~registration to the office of the Secretary of State shall be reviewed by the~~
2 ~~Homes Inspector Advisory Board prior to registration. The board shall review~~
3 ~~the applications no less than once a month and immediately report back to the~~
4 ~~Secretary of State. No application shall be held without review for more than~~
5 ~~a thirty day period.~~ Certificates for the initial registration of a home
6 inspector shall be issued for a period commencing on the date of issue and
7 expiring on December 31 of that year. Certificates shall be renewed for a term
8 of one (1) calendar year. Renewal shall be accomplished on or before sixty
9 (60) days prior to the expiration date. The Secretary of State shall issue
10 certificates to applicants upon the applicant's compliance with the
11 registration requirements of this chapter. Records of certificates and any
12 renewals thereof shall be filed in the office of the Secretary of State and be
13 available to the public. All registrants will be assigned a registration
14 number unique to that person, and that number shall never be issued to any
15 other person. When registration is renewed, that person's registration number
16 shall be perpetuated.

17
18 SECTION 4. Arkansas Code § 17-52-105 is amended to read as follows:
19 17-52-105. Fees.

20 Registration and renewal fees shall be ~~seventy dollars (\$70.00)~~ one
21 hundred dollars (\$100.00). Payments shall be to the Secretary of State and
22 shall accompany the application to which it applies. Provided, however, the
23 fee may be adjusted by the Secretary of State as may be necessary to cover the
24 costs and expenses of performing the duties of the Secretary of State as
25 required by this chapter, it being intended that the registration and renewal
26 fees shall not produce a profit to the State of Arkansas. Prior to any
27 adjustment to the fee, the Secretary of State shall certify to the Legislative
28 Council of the legislature that the adjustment is necessary in order to comply
29 with the provisions of this chapter. All moneys received by the Secretary of
30 State pursuant to this chapter shall be used to administer this chapter.

31
32 SECTION 5. Arkansas Code 17-52-202 is amended to read as follows:
33 17-52-202. Failure to register - Standard of care.

34 (a) Any person who undertakes or attempts to undertake the business of
35 home inspection without first having been registered as required by this
36 chapter, or who knowingly presents or files false information with the

1 Secretary of State for the purpose of registering as a home inspector, shall
2 be deemed guilty of a ~~Class C~~ Class A misdemeanor.

3 (b) A person who has failed to register pursuant to this chapter shall
4 not bring an action to enforce the provisions of any contract to provide home
5 inspections which he or she entered into a in violation of this chapter.

6 ~~(c) All home inspections conducted by persons registered under this
7 chapter shall be conducted in adherence to the Standards of Practice and Code
8 of Ethics of the American Society of Home Inspectors, the Arkansas Association
9 of Real Estate Inspectors, or equivalent professional home inspection
10 association. Copies of these standards shall be on deposit with the Secretary
11 of State.~~

12 ~~(d)~~(c) It is the duty of all home inspectors doing business in the
13 State of Arkansas to conduct home inspections with the degree of care that a
14 reasonably prudent home inspector would exercise.

15 ~~(e) Nothing in this chapter shall be construed to allow home inspectors
16 who are not registered as professional architects or engineers to perform any
17 analysis of the systems, components, or structural integrity of a dwelling
18 that would constitute the practice of civil, electrical, or mechanical
19 engineering.~~

20

21 SECTION 6. Arkansas Code § 17-52-101 is repealed.

22 ~~17-52-101. Title—Purpose.~~

23 ~~This chapter shall be known and may be cited as "The Arkansas Home
24 Inspectors Registration Act." It is the intent of the legislature in enacting
25 this chapter to assure that consumers of home inspection services can rely
26 upon the competence of home inspectors. It is the intent of the legislature
27 that, in ascertaining the degree of care that would be exercised by a
28 reasonably prudent home inspector, the court may consider the standards of
29 practice and code of ethics of the American Society of Home Inspectors, the
30 Arkansas Association of Real Estate Inspectors, or equivalent professional
31 home inspector associations.~~

32

33 SECTION 7. Arkansas Code 17-52-107 is repealed.

34 ~~17-52-107. Home Inspector Advisory Board.~~

35 ~~(a) There is hereby created the Homes Inspector Advisory Board to
36 consist of seven (7) members to include the following:~~

