

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 *As Engrossed: H3/13/03 H3/14/03 H3/24/03 S3/31/03*

2 84th General Assembly

# A Bill

3 Regular Session, 2003

HOUSE BILL 2336

4

5 By: Representatives Schulte, R. Smith, Napper, Agee

6 By: Senators Faris, J. Jeffress

7

8

9

## For An Act To Be Entitled

10 AN ACT TO REPEAL THE HOME INSPECTOR REGISTRATION  
11 PROVISIONS; TO CREATE A NEW HOME INSPECTORS  
12 REGISTRATION ACT; AND FOR OTHER PURPOSES.

13

14

### Subtitle

15

AN ACT TO REPEAL THE HOME INSPECTOR

16

REGISTRATION PROVISIONS; AND TO CREATE A

17

NEW HOME INSPECTORS REGISTRATION

18

ACT.

19

20

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

22

23 SECTION 1. Arkansas Code Title 17, Chapter 52 is amended to add an  
24 additional subchapter to read as follows:

25 17-52-301. Title.

26 This chapter shall be known and may be cited as "The Arkansas Home  
27 Inspectors Registration Act".

28

29 17-52-302. Purpose and intent.

30 (a) It is the intent of the General Assembly in enacting this chapter:

31 (1) To assure that consumers of home inspection services can  
32 rely upon the competence of home inspectors as determined by educational and  
33 testing requirements;

34 (2) That, in ascertaining the degree of care that would be  
35 exercised by a reasonably prudent home inspector, the court shall consider  
36 the standards of practice and code of ethics which are in force at the time



1 the inspection in question was conducted; and

2 (3) That this chapter apply to and govern all persons who  
3 practice home inspection in Arkansas whether they are registered under its  
4 provisions or not.

5 (b) The purpose of the board created under this subchapter shall be to  
6 administer and enforce the provisions of this chapter, promote a business  
7 atmosphere that will protect consumers of home inspection services, oversee  
8 an ongoing continuing program to develop high level skills in home  
9 inspectors, and encourage the presence of a viable home inspection industry  
10 in Arkansas.

11  
12 17-52-303. Definitions.

13 For purposes of this chapter:

14 (1) "Applicant" means a person who is applying for registration or  
15 renewal of registration under this chapter;

16 (2) "Board" means the Arkansas Home Inspector Registration Board as  
17 established in this chapter;

18 (3) "Client" means a person who engages the services of a home  
19 inspector for the purpose of obtaining inspection of and a written report on  
20 the condition of a residential unit;

21 (4) "Competency Examination" means a written examination to establish  
22 whether an applicant possesses an adequate level of knowledge of home  
23 inspection procedures and components;

24 (5) "Home Inspection" means a visual inspection of a residential unit  
25 and its attached carports and garages, the operation of the building systems,  
26 by using the controls normally operated by the owner;

27 (6) "Home inspection report" means a written report prepared for a fee  
28 and issued by a home inspector to document the results of a home inspection;

29 (7) "Home inspector" means a person who engages in the business of  
30 performing home inspections for compensation and who in the pursuit of that  
31 business offers to inspect or inspects the condition of a private residence;

32 (8) "Person" means any natural person; and

33 (9) "Residential unit" means any dwelling, from one (1) to four (4)  
34 units in design, intended principally for residential purposes by one (1) or  
35 more persons.

36

1 17-52-304. Creation - Members.

2 (a) There is created the Arkansas Home Inspector Registration Board.

3 (b) The board shall consist of seven (7) members to be appointed by  
4 the Governor as follows:

5 (1) Four (4) members shall be registered home inspectors;

6 (2) One (1) member shall be a licensed real estate professional;

7 (3) One (1) member shall be a licensed real estate appraiser;

8 and

9 (4) One (1) member shall be an at large member who shall serve  
10 as a consumer advocate.

11 (c)(1) The initial appointed board members under subsection (b) of  
12 this section shall determine their terms of office by drawing lots to result  
13 in two (2) home inspector members and two (2) non inspector members serving  
14 two-year terms, and two (2) home inspector members and (1) non inspector  
15 member serving one-year terms.

16 (2) Successor appointed members shall serve two-year terms.

17 (d) Any vacancy that occurs on the board shall be filled by the  
18 Governor for the remainder of the unexpired term.

19 (e) Board members shall not serve more than three (3) consecutive  
20 terms of office.

21 (f) The consumer advocate member of the board shall call the first  
22 meeting and shall serve as chair of the first meeting.

23 (f) If funds are available, members of the board may receive expense  
24 reimbursement according to § 25-16-902.

25  
26 17-52-305. Meetings.

27 (a) The board shall physically meet not less than two (2) times each  
28 calendar year to conduct business of the board.

29 (b) The board may conduct any additional meetings in person, by  
30 telephone conference call, or by other electronic means.

31 (c) Dates, times, and places of meetings shall be decided by a  
32 majority vote of the members.

33 (d)(1) At the first meeting, a chair and all other officers needed to  
34 conduct the business of the board shall be elected.

35 (2) Except for the election of the initial board officers, all  
36 officers shall be elected in May of each year and shall serve for twelve (12)

1 month terms.

2 (e) Written notice shall be given to each member of the board of the  
3 time and place of each meeting at least ten (10) calendar days before the  
4 scheduled date of the meeting.

5 (f) The minutes of all meetings shall be recorded by an administrative  
6 secretary and made a permanent part of the records of the board, no later  
7 than seven (7) calendar days after the respective meeting.

8 (g) A majority of the members of the board shall constitute a quorum  
9 for transacting any business of the board.

10  
11 17-52-306. Powers and duties of the board.

12 The board may:

13 (1) Perform the duties and functions appropriate and necessary  
14 to carry out the provisions of this chapter;

15 (2) Review, approve, or reject registration applications, and  
16 issue registration certificates to applicants;

17 (3) Establish a mandatory continuing education program designed  
18 to upgrade the professional skills and knowledge of home inspectors  
19 practicing in Arkansas;

20 (4)(A) Establish administrative procedures for disciplinary  
21 proceedings conducted according to the provisions for this chapter.

22 (B) The procedures shall include provisions of the  
23 suspension and revocation of registration and enforcement of civil penalties;

24 (5) Establish procedures for processing and resolving complaints  
25 against home inspectors conducting inspections in Arkansas;

26 (6) Authorize disbursement of the funds collected into the  
27 Arkansas Home Inspector Registration Fund;

28 (7) Employ legal counsel to represent it in any proceedings when  
29 legal counsel is required;

30 (8) Develop competency exams for home inspectors;

31 (9) Establish a standard of practice and code of ethics for home  
32 inspector;

33 (10) Enter into agreements with other states, territories,  
34 districts, or possessions of the United States concerning registration or  
35 licensing requirements acceptable between Arkansas and the other entities;

36 (11) Maintain working files as it deems necessary;

1           (12) Contract for administrative support services and meet  
2 financial obligations of those contracts using moneys from the Arkansas Home  
3 Inspector Registration Fund;

4           (13) Develop and implement:

5                 (A)(i) A means for conducting internet board meetings,  
6 which may be observed by the public in real time.

7                 (ii) Public participation in the meetings may be permitted  
8 in accordance with rules developed by the board; and

9                 (B) Establish and maintain an internet site devoted to home  
10 inspection registration and related subjects;

11           (14)(A) Assume the Secretary of State responsibilities of home  
12 inspector registration, by development of, or contracting a support  
13 organization to perform the administrative duties required by the  
14 registration board, if the Arkansas Home Inspectors Registration fund totals  
15 at least fifteen thousand dollars (\$15,000).

16                 (B) If the fund totals at least fifteen thousand dollars  
17 (\$15,000) and the board votes to transfer the responsibilities of the  
18 Secretary of State to the board, then the board shall give written notice to  
19 the Secretary of State ninety (90) calendar days prior to the transfer; and

20                 (15) Establish educational requirements for registration to  
21 begin after July 1, 2004, including the standards and procedures for approval  
22 of educational programs, if the maximum number of hours required shall not  
23 exceed ninety (90) hours.

24  
25           17-52-307. Hearings - Review - Access to records.

26           (a) The board may as part of an investigation or as a condition of  
27 renewal, require an inspector to submit in writing, inspection reports and  
28 other documents to be reviewed by the board.

29           (b) Requests by the board for copies of inspection reports shall  
30 supersede any contract of client privacy or confidentiality, whether written  
31 or oral.

32           (c) Any documents submitted to the board as part of an investigation  
33 shall:

34                 (1) Be considered as confidential documents;

35                 (2) Be used only for the purpose for which they are requested;

36                 (3) Not be available for public viewing;

1           (4) Not become part of any official file; and

2           (5) Not be revealed to any non-board members.

3           (d) When the action for which they were requested is completed by the  
4 board, the documents shall be returned to the inspector at his or her own  
5 expense or destroyed if the inspector requests that the documents be  
6 destroyed.

7           (e) In fulfilling its duties under this chapter, the board shall  
8 comply with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.,  
9 and any person aggrieved by any rule or other actions of the board for which  
10 an appeal is not provided for in the Administrative Procedure Act, § 25-15-  
11 201 et seq., may appeal to the circuit court of Pulaski County.

12           (f) All work papers submitted to the board for action on complaints  
13 and disciplinary procedures under this chapter, shall not be deemed public  
14 records under the Arkansas Freedom of Information Act, § 25-19-101 et seq.

15  
16           7-52-308. Complaints and disciplinary procedures.

17           (a) Disciplinary hearings conducted by the Arkansas Home Inspector  
18 Registration Board for the purpose of determining whether to levy civil  
19 penalties under this chapter and for the purpose of determining whether to  
20 revoke or suspend any registration, license, or certificate issued under this  
21 chapter, shall not be open public meetings, but shall be executive sessions  
22 conducted as provided for in the Arkansas Freedom of Information Act, § 25-  
23 19-101 et seq.

24           (b) The board may, upon its own motion or upon written complaint of  
25 any person, and after notice and hearing as provided by the Arkansas  
26 Administration Procedure Act, § 25-15-201 et seq., suspend or revoke the  
27 registration of any home inspector and issue a fine up to one thousand  
28 dollars (\$1000) per violation or occurrence, or take any other appropriate  
29 disciplinary action for:

30                   (1) Any violation of the provisions in this chapter;

31                   (2) Falsifying any application for registration or otherwise  
32 providing any false information to the board or the Secretary of State;

33                   (3) Conviction in any jurisdiction of a misdemeanor involving  
34 moral turpitude or of any felony;

35                   (4) A plea of nolo contendere or no contest is considered a  
36 conviction for the purposes of this section;

1           (5) Any actions demonstrating untrustworthiness, incompetence,  
2 dishonesty, gross negligence, material misrepresentation, fraud, or unethical  
3 conduct in any dealings subject to this chapter or these regulations;

4           (6) Adjudication of insanity;

5           (7)(A) Use of advertising or solicitation which is false,  
6 misleading, or is otherwise deemed unprofessional by the board.

7           (B) All advertisements, contracts, correspondence, and  
8 other documents utilized by a home inspector shall prominently include the  
9 home inspector's name and registration number as registered according to this  
10 chapter; or

11  
12           (9) Habitual or excessive use of intoxicants or illegal drugs.

13  
14       17-52-309. Continuing Education.

15       (a) The board shall implement requirements for home inspectors to  
16 successfully complete continuing education annually as a condition to  
17 registration renewal.

18       (b) The board shall:

19           (1) Review the curriculum of continuing education providers;

20           (2) Grant, deny, or revoke approval of those providers as  
21 appropriate; and

22           (3) Provide a list of approved providers to all registered home  
23 inspectors.

24       (c) All costs or fees for continuing education will be borne by the  
25 individual inspector.

26       (d) The board shall promote continuing education courses in Arkansas.

27       (e)(1) Failure to complete continuing education requirements shall  
28 result in suspension of the home inspector's registration.

29           (2) However, the board may waive all or part of the requirements  
30 of this section for any registered home inspector who submits satisfactory  
31 evidence of his or her inability to meet the continuing education  
32 requirements due to debilitating health, hardship, or extenuating  
33 circumstances beyond their control.

34  
35       17-52-310. Role of the Secretary of State.

36       (a)(1) The Secretary of State shall be the custodian of permanent,

1 official, home inspector registration files and shall maintain permanent  
2 records of all home inspector registration applications received since  
3 enactment of the Arkansas Home Inspector Registration Act.

4 (2) The Secretary of State shall maintain the permanent records  
5 of the board.

6 (b) The Secretary of State shall receive and process applications for  
7 initial registration and renewal of registration.

8  
9 17-52-311. Fund.

10 (a) There is created in the State Treasury a fund to be known as the  
11 “Arkansas Home Inspectors Registration Fund”.

12 (b) All funds, fees, charges, costs and collections accruing to or  
13 collected under the provisions of this chapter shall be deposited into the  
14 State Treasury to the credit of this fund.

15 (c) The funds shall be used for the purposes as specified in this  
16 chapter.

17 (d)(1) Except as provided in subdivision (d)(2) of this section,  
18 effective with the 2003 registration and under the provisions of this  
19 chapter, all funds, fees, charges, costs, and collections accruing to or  
20 collected by the Secretary of State, shall be deposited quarterly into the  
21 Arkansas Home Inspector Registration Fund.

22 (2) The Secretary of State shall retain twenty-five dollars  
23 (\$25.00) for processing registration applications and renewals until this  
24 process is transferred to the board.

25 (e) The board will process disbursements of those funds as necessary  
26 in the administration of this chapter.

27  
28 17-52-312. Disposition of funds.

29 (a)(1) The secretary of the Home Inspector Registration Board shall  
30 receive, disburse, and account for all income paid to or received by the  
31 board.

32 (2) The secretary shall institute a system of books and  
33 financial records satisfactory to the Director of the Department of Finance  
34 and Administration.

35 (3)(A) All fees collected on behalf of the Home Inspector  
36 Registration Board and all receipts of every kind and nature shall be paid



1 into the State Treasury and shall be credited to the Home Inspector  
2 Registration Fund.

3 (B) The Home Inspector Registration Fund shall be for the  
4 general uses of the board and out of it shall be paid all salaries and all  
5 other expenses necessarily incurred in carrying into effect the provisions of  
6 this chapter.

7 (C) Expenditures from the Home Inspector Registration Fund  
8 shall be substantiated by vouchers and itemized statements at the end of each  
9 fiscal year or at any other time when demand is made by the Department of  
10 Finance and Administration.

11 (4) The secretary shall deposit all funds of the board that he  
12 or she receives with the State Treasury within forty-eight (48) hours,  
13 excluding holidays and Sundays, after he or she receives the funds.

14 (b) All fines collected for the violation of any provisions of this  
15 chapter shall be paid over to the board to be used by it in the same manner  
16 as funds received for the issuance of registration.

17 (c) The total amount of warrants issued by the board or Auditor of  
18 State in payment of the expenses and compensation provided for in this  
19 chapter, shall not exceed the amount of the application, registration, and  
20 other fees collected.

21 (d)(1) Any surplus funds at the end of the fiscal year may be retained  
22 by the board for future expenditures.

23 (2) The board shall not be required to pay any surplus into the  
24 General Revenue Fund Account of the State Apportionment Fund.

25  
26 17-52-313. Registration.

27 (a) No person shall advertise as a home inspector or undertake or  
28 attempt to undertake the conduct of a home inspection in this state without  
29 first having complied with this chapter.

30 (b) No person who is registered under one (1) name as provided in this  
31 chapter shall engage in business as a home inspector under any other name  
32 unless the other name is also registered.

33  
34 17-52-314. Application for registration.

35 (a) All persons applying for registration or renewal of registration,  
36 as a home inspector, shall be of good moral character and shall submit to the

1 board:

2 (1) An application, under oath, upon a form to be prescribed by  
3 the board;

4 (2) A current certificate of insurance issued by an insurance  
5 company licensed, or surplus lines approved, to do business in the state that  
6 the applicant has procured general liability insurance in the minimum amount  
7 of one hundred thousand dollars (\$100,000), and if applicable, workers  
8 compensation insurance; and

9 (3) The required registration or registration renewal fee shall  
10 accompany the application.

11 (b) A person applying for registration for the first time shall also  
12 submit with the application:

13 (1) A certified copy of a high school diploma or its equivalent;  
14 and

15 (2) A certified copy of a document attesting to the successful  
16 completion of the competency examination.

17 (c) A person renewing a current registration shall also  
18 submit with his or her application, a properly completed form that states  
19 that the person has satisfactorily completed continuing education  
20 requirements for the current year.

21 (d) A person seeking to renew a lapsed, suspended, or otherwise  
22 inactive registration shall provide other documents and comply with  
23 procedures as may be prescribed by the board.

24  
25 17-52-315. Fees and reimbursements.

26 (a)(1) The board may set registration and renewal fees, not to exceed  
27 three hundred dollars (\$300) per year.

28 (2) The board shall notify the Secretary of State within forty-  
29 five (45) days of enactment of this section, the registration fee for the  
30 next year and by June 1 every year thereafter until transferred to the  
31 registration board.

32 (b) All moneys received under this chapter shall be used to administer  
33 this chapter.

34 (c) The board may make reasonable charges for materials provided by  
35 the board and for services performed in connection with providing materials.

36 (d) Other fees authorized to be assessed by the board are:

1           (1) Delinquent renewal fees not to exceed the amount of the  
2 renewal fee;

3           (2) Inspector training or continuing education provider fees:

4                   (A) Initial qualifying fees not to exceed two hundred  
5 dollars (\$200);

6                   (B) Annual renewal fees not to exceed two hundred dollars  
7 (\$200); and

8                   (C) Additional course filing fees not to exceed twenty-  
9 five dollars (\$25);

10           (3) Duplicate registration fees not to exceed twenty-five  
11 dollars (\$25);

12           (4) Returned check fees not to exceed twenty-five (\$25); and

13           (5) Change of Address fees not to exceed twenty-five dollars  
14 (\$25).

15  
16           17-52-316. Certificates of registration.

17           (a)(1) Certificates of registration shall be issued by the board to an  
18 applicant after compliance with the registration or renewal requirements of  
19 this chapter and approval by the board.

20           (2) Certificates shall be consecutively numbered.

21           (b) When registration is renewed, that person's registration number  
22 shall be perpetuated.

23           (c) Certificates of registration of a home inspector shall be issued  
24 for a period of at least one (1) year and expiring at the end of a period of  
25 up to three (3) years, as may be set by the board.

26           (d) Notices of upcoming registration expiration and a reminder to  
27 renew shall be mailed to registered inspectors no more than sixty (60) days  
28 and no less than forty-five (45) days before the expiration date of his or  
29 her registration.

30  
31           17-52-317. Insurance.

32           (a)(1) All home inspectors are required to carry general liability  
33 insurance.

34           (2) Coverage limits shall be not less than one hundred thousand  
35 dollars (\$100,000).

36           (b) All policies and certificates shall provide that cancellation or

1 renewal of the policy shall not be effective unless and until at least ten  
2 (10) days notice of cancellation or nonrenewal has been received in writing  
3 by the board.

4 (c) If the insurance coverage required under this chapter shall cease  
5 to be effective, the insured home inspector shall be required to notify the  
6 board in writing, of any lapses in coverage.

7 (d)(1) After notification, the registration of the affected home  
8 inspector shall be suspended until the insurance is reinstated or replaced.

9 (2) The suspension shall be noted on the inspector's listing on  
10 the Internet.

11  
12 17-52-318. Standards of care

13 (a) It is the duty of all home inspectors doing business in the state  
14 to conduct home inspections with the degree of care that a reasonably prudent  
15 home inspector would exercise.

16 (b)(1) All home inspections conducted for compensation in this state  
17 shall be conducted according to the standards of practice and code of ethics  
18 set forth by the board.

19 (c) If agreed, between the inspector and his or her client, an  
20 inspection of lesser scope and detail may be conducted.

21 (d) Copies of all standards of practice and code of ethics set forth  
22 by the board shall be filed with the Secretary of State and made available to  
23 anyone requesting the rules at cost.

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

29  
30 17-52-319. Limitations.

31 (a) Any cause of action to recover damages suffered by a consumer as a  
32 result of any act or omission of a home inspector relating to a home  
33 inspection report must be commenced within one (1) year from the date the  
34 report is completed.

35 (b) Disciplinary action taken against a home inspector by the board  
36 shall not, in and of itself, be the basis for civil or criminal action.

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17-52-320. Unfair practices.

(a) It is an unfair business practice for a home inspector, a company that employs the inspector, or a company that has a financial interest in a company employing a home inspector, to do any of the following:

(1) To perform or offer to perform, for an additional fee, any repairs to the property on which the inspector, or the inspector's company, has prepared a home inspection report in the past twelve (12) months;

(2) Inspect for a fee any property in which the inspector, or the inspector's company, has any financial interest or any interest in the transfer of the property;

(3) To offer or deliver any compensation, inducement, or reward to the owner of the inspected property, the broker, or agent, for the referral of any business to the inspector or the inspection company; or

(4) Accept an engagement to make an inspection or to prepare a report in which the employment itself or the fee payable for the inspection is contingent upon the conclusions in the report, preestablished findings or the close of escrow.

(b)(1) A home inspection report shall not be used in any manner other than agreed to in writing by the inspector and his or her client.

(2) Transfer of an inspection report, or portion of a report, to any third party absolves the inspector and his or her client of any responsibility of liability for claims or adverse actions arising from the use.

17-52-321. Exemptions.

(a) A person who by virtue of his or her employment by a public entity does home inspection work for that agency, shall not be required to be registered under this chapter if the inspections are conducted:

(1) Solely for the benefit of that entity; and

(2) For no compensation other than the employee's salary.

(b) This chapter shall not apply to:

(1) Any person holding a valid registration, certificate, or license issued by the state, if the person's activity is limited to the activity authorized by his or her registration, certificate, or license;

(2) A person who inspects his or her own home; or

1           (3) A public entity which inspects its residential units with  
2 its own personnel, specifically trained for the inspection.

3  
4           SECTION 3. Arkansas Code Title 17, Chapter 52, Subchapter 1 and 2 are  
5 repealed.

6           ~~17-52-101. Title—Purpose.~~

7           ~~(a) This chapter shall be known and may be cited as the "Arkansas Home~~  
8 ~~Inspectors Registration Act".~~

9           ~~(b)(1) It is the intent of the legislature in enacting this chapter to~~  
10 ~~assure that consumers of home inspection services can rely upon the~~  
11 ~~competence of home inspectors.~~

12           ~~(2) It is the intent of the legislature that, in ascertaining~~  
13 ~~the degree of care that would be exercised by a reasonably prudent home~~  
14 ~~inspector, the court may consider the standards of practice and code of~~  
15 ~~ethics of the American Society of Home Inspectors, the Arkansas Association~~  
16 ~~of Real Estate Inspectors, or equivalent professional home inspector~~  
17 ~~associations.~~

18  
19           ~~17-52-102. Definitions.~~

20           ~~For the purpose of this chapter:~~

21           ~~(1) "Equivalent professional home inspector association" means a~~  
22 ~~professional association determined as equivalent to the American Society of~~  
23 ~~Home Inspectors, or the Arkansas Association of Real Estate Inspectors by the~~  
24 ~~Secretary of State and also approved by a majority of the home inspectors~~  
25 ~~registered under this chapter at the time the determination is made;~~

26           ~~(2) "Home inspection" means a physical examination of a home~~  
27 ~~made to identify visible defects or conditions that may adversely affect the~~  
28 ~~function and integrity of the items, components, and systems inspected, or~~  
29 ~~the health or safety of the occupants of the residence. Such inspections may~~  
30 ~~include ancillary buildings;~~

31           ~~(3) "Home inspection report" means a written report prepared for~~  
32 ~~a fee and issued by a home inspector after a home inspection. The report~~  
33 ~~clearly describes and identifies the inspected systems, structures, or~~  
34 ~~components of the dwelling, any defects identified, and any recommendations~~  
35 ~~regarding the conditions observed or recommendations for evaluation by~~  
36 ~~appropriate persons;~~

1           ~~(4) "Home inspector" means a person who engages in the business~~  
2 ~~of performing home inspections for compensation and, who, in the pursuit of~~  
3 ~~that independent business, undertakes or offers to undertake, or submits a~~  
4 ~~bid to, or contracts or undertakes to inspect, or assumes charge, in a~~  
5 ~~supervisory capacity or otherwise, or inspects the condition of a private~~  
6 ~~residence on behalf of another person;~~

7           ~~(5) "Home or residence" means any dwelling, from one (1) to four~~  
8 ~~(4) units in design intended principally for residential purposes by one (1)~~  
9 ~~or more individuals; and~~

10           ~~(6) "Person" means any natural person.~~

11  
12           ~~17-52-103. Application for registration.~~

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

17           ~~(1) The name and address under which the applicant conducts~~  
18 ~~business, if an individual proprietorship; the name and address of each~~  
19 ~~partner or venture if the applicant is a party to a partnership or joint~~  
20 ~~venture; or the name and address of the corporate officers and statutory~~  
21 ~~agent for service, if the applicant is an employee of or party to a~~  
22 ~~corporation;~~

23           ~~(2) A certificate issued by an insurance company licensed, or~~  
24 ~~surplus lines approved, to do business in the State of Arkansas that the~~  
25 ~~applicant has procured general liability insurance in the minimum amount of~~  
26 ~~one hundred thousand dollars (\$100,000); and, if applicable, workers'~~  
27 ~~compensation insurance coverage;~~

28           ~~(3) Evidence of one (1) of the following professional~~  
29 ~~qualifications:~~

30           ~~(A) Membership or candidacy in and adherence to the~~  
31 ~~Standards of Practice and Code of Ethics of the American Society of Home~~  
32 ~~Inspectors, Inc., the Arkansas Association of Real Estate Inspectors, or an~~  
33 ~~equivalent professional home inspection association. Persons in candidate~~  
34 ~~status must provide evidence of having successfully completed the respective~~  
35 ~~professional association's certification examination;~~

36           ~~(B) A high school diploma or its equivalent, work~~

1 ~~experience doing home inspections for at least one (1) year under the direct~~  
2 ~~supervision of a registered home inspector, and completion of one hundred~~  
3 ~~(100) home inspections for compensation;~~

4 ~~(C) Current professional registration in Arkansas as an~~  
5 ~~architect, architectural engineer, mechanical engineer, or structural~~  
6 ~~engineer; or~~

7 ~~(D) A high school diploma or its equivalent, work~~  
8 ~~experience doing home inspections for at least one (1) year, completion of at~~  
9 ~~least twenty (20) home inspections for compensation, and successful~~  
10 ~~completion of at least ninety (90) core hours of a real estate inspection~~  
11 ~~education program; and~~

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

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

16  
17 ~~17-52-104. Certificates of registration.~~

18 ~~(a)(1) Certificates shall be consecutively numbered by the Secretary~~  
19 ~~of State.~~

20 ~~(2) Certificates shall be issued to applicants upon the~~  
21 ~~applicants' compliance with the registration requirements of this chapter.~~

22 ~~(b) All applications for registration to the office of the Secretary~~  
23 ~~of State shall be reviewed by the Homes Inspector Advisory Board prior to~~  
24 ~~registration. The board shall review the applications no less than once a~~  
25 ~~month and immediately report back to the Secretary of State. No application~~  
26 ~~shall be held without review for more than a thirty-day period.~~

27 ~~(c)(1) Certificates for the initial registration of a home inspector~~  
28 ~~shall be issued for a period commencing on the date of issue and expiring on~~  
29 ~~December 31 of that year.~~

30 ~~(2) Certificates shall be renewed for a term of one (1) calendar~~  
31 ~~year. Renewal shall be accomplished on or before sixty (60) days prior to the~~  
32 ~~expiration date.~~

33 ~~(d)(1) The Secretary of State shall issue certificates to applicants~~  
34 ~~upon the applicants' compliance with the registration requirements of this~~  
35 ~~chapter.~~

36 ~~(2) Records of certificates and any renewals thereof shall be~~



1 ~~filed in the office of the Secretary of State and be available to the public.~~

2 ~~(3) All registrants will be assigned a registration number~~  
3 ~~unique to that person, and that number shall never be issued to any other~~  
4 ~~person. When registration is renewed, that person's registration number shall~~  
5 ~~be perpetuated.~~

6  
7 ~~17-52-105. Fees.~~

8 ~~(a)(1) Registration and renewal fees shall be seventy dollars~~  
9 ~~(\$70.00).~~

10 ~~(2) Payments shall be to the Secretary of State and shall~~  
11 ~~accompany the application to which it applies.~~

12 ~~(3)(A) However, the fee may be adjusted by the Secretary of~~  
13 ~~State as may be necessary to cover the costs and expenses of performing the~~  
14 ~~duties of the Secretary of State as required by this chapter, it being~~  
15 ~~intended that the registration and renewal fees shall not produce a profit to~~  
16 ~~the State of Arkansas.~~

17 ~~(B) Prior to any adjustment to the fee, the Secretary of~~  
18 ~~State shall certify to the Legislative Council that the adjustment is~~  
19 ~~necessary in order to comply with the provisions of this chapter.~~

20 ~~(b) All moneys received by the Secretary of State pursuant to this~~  
21 ~~chapter shall be used to administer this chapter.~~

22  
23 ~~17-52-106. Insurance.~~

24 ~~In the event that the insurance coverage required pursuant to this~~  
25 ~~chapter shall cease to be effective, the home inspector shall notify the~~  
26 ~~Secretary of State, and the registration of the affected home inspector shall~~  
27 ~~be suspended until the insurance is reinstated or replaced. The insurance~~  
28 ~~company ceasing to provide coverage for the home inspector shall be requested~~  
29 ~~to notify the Secretary of State of the policy cancellation.~~

30  
31 ~~17-52-107. Homes Inspector Advisory Board.~~

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

34 ~~(1) Four (4) registered home inspectors to come from diverse~~  
35 ~~areas of the state;~~

36 ~~(2) One (1) member from the real estate profession;~~

1           ~~(3) One (1) member who is a licensed real estate appraiser; and~~

2           ~~(4) One (1) member who is a consumer advocate.~~

3           ~~(b) The board shall:~~

4           ~~(1) Decide the subject content and standards which will be~~  
5           ~~acceptable to meet the educational standards with regard to home inspection~~  
6           ~~courses as required by law; and~~

7           ~~(2) Develop and put into place procedures for processing and~~  
8           ~~resolution of any and all complaints against and by home inspectors~~  
9           ~~practicing in this state.~~

10          ~~(c) Members shall serve twelve month terms, and each member may serve~~  
11          ~~a maximum of two (2) consecutive terms.~~

12          ~~(d) The board shall choose a chair for a twelve month term.~~

13          ~~(e) The board shall meet at least two (2) times a year in a location~~  
14          ~~decided by a majority of the board and may meet more often if necessary.~~

15          ~~(f) The board members shall receive no compensation for their services~~  
16          ~~on the board.~~

17

18          ~~17-52-201. Registration required.~~

19          ~~(a) No person shall advertise as a home inspector unless the person~~  
20          ~~has complied with the provisions of this chapter.~~

21          ~~(b) No person who is registered under one (1) name as provided in this~~  
22          ~~chapter shall engage in business as a home inspector under any other name~~  
23          ~~unless the other name is also registered.~~

24          ~~(c) All advertisements, contracts, correspondence, and other documents~~  
25          ~~prepared by a home inspector shall indicate the home inspector's registration~~  
26          ~~number, name, and address as registered pursuant to this chapter.~~

27

28          ~~17-52-202. Failure to register—Standard of care.~~

29          ~~(a) Any person who undertakes or attempts to undertake the business of~~  
30          ~~home inspection without first having been registered as required by this~~  
31          ~~chapter, or who knowingly presents or files false information with the~~  
32          ~~Secretary of State for the purpose of registering as a home inspector, shall~~  
33          ~~be deemed guilty of a Class C misdemeanor.~~

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

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

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

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

15  
16           ~~17-52-203. Unfair practices.~~

17           ~~It is an unfair business practice for a home inspector, a company that~~  
18 ~~employs the inspector, or a company that is controlled by a company that also~~  
19 ~~has a financial interest in a company employing a home inspector, to do any~~  
20 ~~of the following:~~

21           ~~(1) To perform or offer to perform, for an additional fee, any~~  
22 ~~repairs to a structure on which the inspector, or the inspector's company,~~  
23 ~~has prepared a home inspection report in the past twelve (12) months;~~

24           ~~(2) Inspect for a fee any property in which the inspector, or~~  
25 ~~the inspector's company, has any financial interest or any interest in the~~  
26 ~~transfer of the property;~~

27           ~~(3) To offer or deliver any compensation, inducement, or reward~~  
28 ~~to the owner of the inspected property, the broker, or agent for the referral~~  
29 ~~of any business to the inspector or the inspection company; or~~

30           ~~(4) Accept an engagement to make an inspection or to prepare a~~  
31 ~~report in which the employment itself or the fee payable for the inspection~~  
32 ~~is contingent upon the conclusions in the report, preestablished findings, or~~  
33 ~~the close of escrow.~~

34  
35           ~~17-52-204. Exemptions.~~

36           ~~(a) A person who by virtue of his or her employment by a public entity~~

1 ~~does home inspection work for that agency shall not be required to be~~  
2 ~~registered under this chapter so long as those inspections are conducted~~  
3 ~~solely for the benefit of that entity and for no compensation beyond the~~  
4 ~~salary prescribed for that person's position.~~

5 ~~(b) The provisions of this chapter shall not apply to a registered~~  
6 ~~professional architect or engineer or licensed electrician, plumber, or other~~  
7 ~~person holding a valid license issued by the State of Arkansas, provided that~~  
8 ~~the person's activity is limited to that activity authorized by his or her~~  
9 ~~license or registration.~~

10 ~~(c) This chapter shall not apply to a person who inspects his or her~~  
11 ~~own home or public entity who inspects its home with its own personnel~~  
12 ~~specifically trained for such an inspection.~~

13 ~~(d) Any person exempt under this section is required to obtain local~~  
14 ~~permits and licenses as may be required by local ordinance.~~

15  
16 SECTION 3. Certificates of registration issued to home inspectors  
17 under § 17-52-103, shall remain in effect until his or her registration  
18 expires.

19  
20 SECTION 4. All regulations adopted by the Homes Inspector Advisory  
21 Board under § 17-52-107 shall remain in effect until the new Arkansas  
22 Inspector Registration Board adopts regulations, unless the regulations  
23 conflict with this act.

24  
25 SECTION 5. Members of the Home Inspector Advisory Board appointed  
26 under § 17-52-107 shall serve on the Arkansas Inspector Registration Board  
27 created under this act until the Governor has appointed new board members.

28  
29 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the  
30 General Assembly of the State of Arkansas that proper registration and  
31 monitoring of the home inspectors in this state is vital to the protection of  
32 Arkansas home owners; that the current home inspector laws are not adequate  
33 and do not properly fund this important government function; and that this  
34 act is essential that a functioning Home Inspector Registration Board be in  
35 place at the beginning of the fiscal year to receive its funds to properly  
36 monitor Arkansas home inspectors. Therefore, an emergency is declared to

1 exist and this act being necessary for the preservation of the public peace,  
2 health, and safety shall become effective on July 1, 2003.

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*/s/ Schulte*