

HOUSE COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 115

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO LICENSURE; AMENDING APPROVED EXAMINATION
REQUIREMENTS FOR THE LICENSING OF NEW MEXICO HOME INSPECTORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-24D-2 NMSA 1978 (being Laws 2019,
Chapter 239, Section 2) is amended to read:

"61-24D-2. DEFINITIONS.--As used in the Home Inspector

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Licensing Act:

A. "approved examination" means a national home inspector licensing examination that has been third-party accredited as complying with the prevailing standards of the *Standards for Educational and Psychological Testing* and assesses an applicant's knowledge of:

- (1) roofing;
- (2) exterior;
- (3) interior;
- (4) structure;
- (5) electrical;
- (6) plumbing;
- (7) heating and cooling;
- (8) insulation;
- (9) fireplace and chimney; and
- (10) ethical business practices, professional standards and reports;

~~[A.]~~ B. "board" means the New Mexico home inspectors board;

~~[B.]~~ C. "client" means a person or an agent of the person who, through a written pre-inspection agreement, engages the services of a home inspector for the purpose of obtaining a report on the condition of residential real property;

~~[C.]~~ D. "compensation" means the payment for home inspection services pursuant to the written pre-inspection

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agreement;

~~[D.]~~ E. "foreign home inspector" means a home inspector who does not hold a license but who holds a current and valid home inspector license issued by another jurisdiction in the United States;

~~[E.]~~ F. "home inspection" means a noninvasive, nondestructive examination by a person of the interior and exterior components of a residential real property, including the property's structural components, foundation and roof, for the purposes of providing a professional written opinion regarding the site aspects and condition of the property and its carports, garages and reasonably accessible installed components. "Home inspection" includes the examination of the property's heating, cooling, plumbing and electrical systems, including the operational condition of the systems' controls that are normally operated by a property owner;

~~[F.]~~ G. "home inspector" means a person who performs home inspections for compensation;

~~[G.]~~ H. "license" means a home inspector license issued by the board in accordance with the Home Inspector Licensing Act;

~~[H.]~~ I. "licensee" means the holder of a license;

~~[I.]~~ J. "pre-inspection agreement" means the written agreement signed by the client and a home inspector by which a client engages the services of the home inspector and

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that sets forth at a minimum the following:

(1) the amount of compensation due and payable to the home inspector for the home inspection and delivery of a report;

(2) a list of all components and systems that will be inspected; and

(3) the date by which the client will receive the report;

~~[J-]~~ K. "report" means a written opinion prepared by a home inspector pursuant to the terms of a pre-inspection agreement regarding the functional and physical condition of the residential real property as determined by a home inspection conducted by a home inspector; and

~~[K-]~~ L. "residential real property" means any real property or manufactured or modular home that is used for or intended to be used for residential purposes and that is a single-family dwelling, duplex, triplex, quadplex or unit, as "unit" is defined by the Condominium Act."

SECTION 2. Section 61-24D-3 NMSA 1978 (being Laws 2019, Chapter 239, Section 3, as amended) is amended to read:

"61-24D-3. NEW MEXICO HOME INSPECTORS BOARD--CREATED--
POWERS AND DUTIES.--

A. The "New Mexico home inspectors board" is created and is administratively attached to the regulation and licensing department.

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B. The board shall consist of five members, appointed by the governor, who have been residents of the state for at least three consecutive years immediately prior to their appointment. Three members shall be home inspectors. One member shall be a real estate qualifying or associate broker licensed in accordance with Chapter 61, Article 29 NMSA 1978, and one member shall be a member of the public who has never been licensed as a home inspector or real estate broker. No more than one member shall be a resident of any one county in the state. The initial home inspector members appointed shall demonstrate that they have been actively and lawfully engaged in home inspections for at least twenty-four months prior to the effective date of the Home Inspector Licensing Act and have met the requirements of Paragraphs (1) through (4) of Subsection A of Section 61-24D-6 NMSA 1978. The initial home inspector members appointed shall comply with Paragraph (6) of Subsection A of Section 61-24D-6 NMSA 1978 within six months of the effective date of the licensing examination rule promulgated by the board in accordance with the State Rules Act. After the board is initially established, any replacement of a home inspector member shall be a licensee.

C. Board members shall serve for five years or until their successors are appointed and qualified. The governor may remove a member with or without cause. In the event of a vacancy, the governor shall appoint a member to

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complete the unexpired term. The initial board members appointed shall serve staggered terms from the date of their appointment as follows:

- (1) two members for three-year terms;
- (2) two members for two-year terms; and
- (3) one member for a one-year term.

D. The board shall elect annually from among its members a chair and other officers as the board determines. The board shall meet at times and places as fixed by the board. A majority of the board constitutes a quorum.

E. Members of the board may receive per diem and mileage as provided in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance.

F. The board shall possess all powers and perform all duties prescribed by the Home Inspector Licensing Act and as otherwise provided by law and may promulgate rules in accordance with the State Rules Act to carry out the provisions of the Home Inspector Licensing Act.

G. Pursuant to the provisions of the Home Inspector Licensing Act, the board shall:

- (1) adopt rules and procedures necessary to administer and enforce the provisions of the Home Inspector Licensing Act;
- (2) adopt and publish a code of ethics and standards of practice for persons licensed under the Home

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Inspector Licensing Act;

(3) issue, renew, suspend, modify or revoke licenses to home inspectors in accordance with the Uniform Licensing Act;

(4) establish standards for the training, experience and continuing education requirements of the Home Inspector Licensing Act;

(5) establish the amount and administer the fees charged for examinations, initial licensure, license renewals, reinstatement of revoked or suspended licenses, reactivation of inactive or expired licenses, criminal background checks and other services pursuant to the provisions of the Home Inspector Licensing Act;

(6) adopt ~~[and approve a licensing]~~ an approved examination, which may be administered by a nationally accepted testing service ~~[as determined by the board]~~, in HJC→strict←HJC compliance with federal Americans with Disabilities Act of 1990 accommodations as required by law;

(7) conduct state and criminal background checks on all applicants for a license;

(8) maintain a list of the names and addresses of all licensees and of all persons whose licenses have been suspended or revoked within that year, together with such other information relative to the enforcement of the provisions of the Home Inspector Licensing Act;

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(9) maintain a statement of all funds received and a statement of all disbursements;

(10) mail copies of statements to any person in this state upon request; and

(11) perform other functions and duties as may be necessary to administer or carry out the provisions of the Home Inspector Licensing Act."

SECTION 3. Section 61-24D-6 NMSA 1978 (being Laws 2019, Chapter 239, Section 6, as amended) is amended to read:

"61-24D-6. LICENSURE.--

A. Unless otherwise provided in the Home Inspector Licensing Act, an applicant for a license shall:

(1) complete an application on forms provided by the board;

(2) provide documentation to establish that the applicant is at least eighteen years of age;

(3) provide the board with the applicant's fingerprints and all information necessary for a state and national criminal background check;

(4) provide proof of and maintain insurance coverage as provided in Section 61-24D-12 NMSA 1978;

(5) have completed at least eighty hours of classroom training, the content of which shall be established by rule of the board;

(6) pass [~~a national home inspector licensing~~]

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an approved examination and any additional New Mexico-specific licensing examinations as prescribed by the board; and

(7) have completed at least eighty hours of field training, or its equivalent, as determined by the board.

B. Paragraphs (5) and (7) of Subsection A of this section shall not apply to a person who has:

(1) worked as a home inspector in each of the twenty-four months immediately preceding the effective date of the Home Inspector Licensing Act; and

(2) performed at least one hundred home inspections for compensation in the twenty-four months immediately preceding the effective date of the Home Inspector Licensing Act.

C. After the board's review of all information obtained by the board and submitted by the applicant as required by this section, if all of the requirements for licensure are met, the board shall issue a license to the applicant."

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

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