

**LAWS AND REGULATIONS RELATING TO
LICENSURE AS A HOME INSPECTOR**



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DISCLAIMER

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For the official copies of the statutes and regulations pertaining to this profession, please visit <http://lrc.ky.gov>.

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KENTUCKY REVISED STATUTES

198B.700 Definitions for KRS 198B.700 to 198B.738.

As used in KRS 198B.700 to 198B.738, unless otherwise provided:

- (1) "Applicant" means an individual who applies for a license as a home inspector;
- (2) "Board" means the Kentucky Board of Home Inspectors established in KRS 198B.704;
- (3) "Client" means a person who contracts with a licensed home inspector to obtain a home inspection and subsequent written home inspection report;
- (4) "Home inspection" means a visual analysis performed for compensation for the purpose of providing a professional opinion and home inspection report by a licensed home inspector, regarding the condition of a residential dwelling and the dwelling's attached garages and carports, any reasonable accessible installed components, and the operation of the dwelling's systems, including any controls normally operated by the owner of the dwelling, for systems and components in the standards of practice established by the board. Home inspection shall not include a code compliance inspection, or an inspection required under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., as amended, and rules and regulations issued thereunder, or KRS 227.600 regarding manufactured homes;
- (5) "Home inspection report" means a written report prepared by a licensed home inspector for compensation and issued after a home inspection. The report shall include the following:
 - (a) A report on any system or component inspected that, in the professional opinion of the inspector, is significantly deficient;
 - (b) The inspector's recommendation to repair or monitor deficiencies reported under paragraph (a) of this subsection;
 - (c) A list of any systems or components that were designated for inspection in the standards of practice adopted by the board but that were not inspected; and
 - (d) The reason a system or component listed under paragraph (c) of this subsection was not inspected;
- (6) "Home inspector" means an individual who performs home inspections for compensation;
- (7) "Licensee" means a person who performs home inspections and who is licensed under KRS 198B.700 to 198B.738 as a home inspector; and
- (8) "Residential dwelling" means a structure consisting of at least one (1) but not more than four (4) units, each designed for occupancy by a single family, whether the units are occupied or unoccupied.

Effective: June 8, 2011

History: Amended 2011 Ky. Acts ch. 100, sec. 3, effective June 8, 2011. -- Amended 2010 Ky. Acts ch. 24, sec. 297, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 100, sec. 1, effective July 15, 2008. -- Created 2004 Ky. Acts ch. 109, sec. 1, effective July 13, 2004.

198B.702 Exemptions from requirements of KRS 198B.700 to 198B.738.

KRS 198B.700 to 198B.738 shall apply to an individual who conducts home inspections for compensation, but shall not apply to the following:

- (1) An individual who is acting within the scope of the individual's employment as:
 - (a) A code enforcement official for the state or a political subdivision of the state; or

- (b) A representative of a state or local housing agency or an individual acting under the authority of the United States Department of Housing and Urban Development;
- (2) An individual who is acting within the scope of the individual's license as a licensed:
 - (a) Architect under KRS Chapter 323;
 - (b) Professional engineer under KRS Chapter 322;
 - (c) Plumbing contractor or journeyman plumber under KRS Chapter 318;
 - (d) Electrician, master electrician, or electrical contractor under KRS Chapter 227A;
 - (e) Liquefied petroleum gas dealers under KRS Chapter 234;
 - (f) Master heating, ventilation, and air conditioning contractor, journeyman heating, ventilation, and air conditioning mechanic, or an apprentice heating, ventilation, and air conditioning mechanic under this chapter; or
 - (g) Fire protection sprinkler contractor, fire protection system certificate holder, or certified fire sprinkler inspector under this chapter;
- (3) An individual licensed under KRS Chapter 324 as a real estate broker, broker-salesperson, or salesperson and is acting within the scope of the individual's license;
- (4) An individual who is licensed under KRS Chapter 324A as a real estate appraiser and is acting within the scope of the individual's license;
- (5) An individual who holds a license under KRS Chapter 304 as an insurance adjuster and is acting within the scope of the individual's license;
- (6) An individual who holds a permit, certificate, or license to:
 - (a) Use and apply pesticides; or
 - (b) Make diagnostic inspections and reports for wood destroying pests and fungi under KRS Chapter 217B and is acting within the scope of the individual's certificate or license;
- (7) An individual who holds a license from a political subdivision as a tradesperson or home builder and is acting within the scope of the individual's license;
- (8) An individual who holds a current and valid license, certificate, or permit under KRS 227.550 to 227.660 and is acting within the scope of the individual's license, certificate, or permit as a:
 - (a) Manufactured home retailer;
 - (b) Manufactured home certified retailer; or
 - (c) Manufactured home certified installer; or
- (9) A person not subject to licensure by the Commonwealth who is engaged in providing estimates for remodeling or repair to a residential dwelling.

Effective: June 8, 2011

History: Amended 2011 Ky. Acts ch. 100, sec. 4, effective June 8, 2011. -- Amended 2010 Ky. Acts ch. 24, sec. 298, effective July 15, 2010. -- Created 2004 Ky. Acts ch. 109, sec. 2, effective July 13, 2004.

198B.704 Kentucky Board of Home Inspectors -- Members -- Meetings -- Salary -- Removal.

- (1) There is created an independent agency of state government to be known as the Kentucky Board of Home Inspectors, which shall be attached to the Office of Occupations and Professions in the Public Protection Cabinet for administrative purposes.
- (2) The board shall be composed of nine (9) members appointed by the Governor as follows:
 - (a) Five (5) of the board members shall:
 1. Have been actively engaged in performing home inspections in Kentucky for at least five (5) years immediately before the member's appointment to the board, or have completed no less than one hundred (100) fee-paid inspections per year over the last five (5) years; and
 2. Be licensed by the board as a home inspector; and
 - (b) The other four (4) board members shall be qualified as follows:
 1. One (1) member shall be a home builder who has been actively engaged in home building in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Home Builders Association of Kentucky;
 2. One (1) member shall be a licensed real estate salesperson or broker under this chapter who has been actively engaged in selling, trading, exchanging, optioning, leasing, renting, managing, or listing residential real estate in Kentucky for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Association of Realtors;
 3. One (1) member shall represent the public at large and shall not be associated with the home inspection, home building, or real estate business other than as a consumer. This member shall be appointed by the Governor, but shall not be selected from a submitted list of names; and
 4. One (1) member shall be a licensed manufactured home retailer, certified retailer, or certified installer who has been actively engaged in such an occupation for at least five (5) years immediately before the member's appointment to the board. This member shall be selected from a list of three (3) names submitted to the Governor from the Kentucky Manufactured Housing Institute.
- (3) The members of the board shall be residents of Kentucky.
- (4) Each member shall serve a term of three (3) years or until a successor has been duly appointed. Each member serving on July 1, 2011, shall continue to serve through his or her appointed term.
- (5) The Governor may remove a board member at any time for incompetence, neglect of duty, or unprofessional conduct.
- (6) If a vacancy occurs in the membership of the board, the Governor shall appoint an individual to serve for the remainder of the unexpired term who has like qualifications required of the member who created the vacancy.
- (7) A member shall not serve on the board for more than six (6) consecutive years.
- (8) The board shall designate either a board member or a member of the board's administrative staff to serve as secretary to the board.
- (9) Each year the board shall elect a member as chairperson and a member as vice chairperson.
- (10) The chairperson and vice chairperson shall serve in their respective capacities for no more than one (1) year consecutively and until a successor is elected.
- (11) The chairperson shall preside at all meetings at which the chairperson is present. The vice chairperson shall preside at meetings in the absence of the chairperson and shall perform other duties as the chairperson directs.

- (12) If the chairperson and vice chairperson are absent from a meeting of the board when a quorum exists, the members who are present may elect a presiding officer who shall serve as acting chairperson until the conclusion of the meeting or until the arrival of the chairperson or vice chairperson.
- (13) The board shall meet at least quarterly each calendar year upon the call of the chairperson or the written request of a majority of the members of the board.
- (14) The chairperson shall establish the date, time, and place for each meeting.
- (15) A majority of the current members of the board constitutes a quorum.
- (16) The affirmative vote of a majority of the members is necessary for the board to take official action.
- (17) Each member of the board is entitled to a minimum salary of thirty-five dollars (\$35) per diem. Each member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as established under KRS 45.101.
- (18) A member shall be automatically removed from the board and a vacancy shall be created if a member fails to adhere to a duly adopted code of ethics of the board. Failure to adhere to such a code shall be determined by official action of the board.

Effective: June 8, 2011

History: Amended 2011 Ky. Acts ch. 100, sec. 5, effective June 8, 2011. -- Amended 2010 Ky. Acts ch. 24, sec. 299, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 100, sec. 2, effective July 15, 2008. -- Amended 2006 Ky. Acts ch. 77, sec. 1, effective July 12, 2006. -- Created 2004 Ky. Acts ch. 109, sec. 3, effective July 13, 2004.

Legislative Research Commission Note (7/12/2006). The reference to "subsection (2)(a)3. of this section" that is contained in subsection (3) of this statute pertains to provisions involving the appointment of certain board members that were removed in 2006 Ky. Acts ch. 77, sec. 1. Because this reference relates to licensure requirements that were to be met by July 1, 2006, and was not removed in the Act, the Reviser of Statutes has not altered or attempted to correct this phrase during codification.

198B.706 Duties and powers of board.

The board shall:

- (1) Through the promulgation of administrative regulations:
 - (a) Determine the requirements for and prescribe the form of licenses, applications, and other documents that are required by KRS 198B.700 to 198B.738; and
 - (b) Require that a home inspection report include a statement that the home inspection report does not address environmental hazards and list all other exclusions with specificity;
- (2) Grant, deny, suspend, and revoke approval of examinations and courses of study regarding home inspections;
- (3) Issue or deny applications for licensure and renewals;
- (4) Investigate complaints concerning licensees, or persons the board has reason to believe should be licensees, including complaints concerning failure to comply with KRS 198B.700 to 198B.738 or administrative regulations promulgated under KRS 198B.700 to 198B.738, and, when appropriate, take action in accordance with KRS 198B.728 and 198B.730;
- (5) Bring actions in the name of the state in an appropriate court in order to enforce compliance with KRS 198B.700 to 198B.738 or the administrative regulations promulgated under KRS 198B.700 to 198B.738;
- (6) Establish license fees in an amount not to exceed two hundred fifty dollars (\$250) annually;

- (7) Inspect the records of a licensee in accordance with administrative regulations promulgated by the board;
- (8) Conduct or designate a member or other representative to conduct public hearings on any matter for which a hearing is required under KRS 198B.728 and 198B.730;
- (9) Adopt a seal containing the words "Kentucky Board of Home Inspectors" and, through the board's secretary, certify copies and authenticate all acts of the board;
- (10) Use counsel, consultants, and other persons, enter into contracts, and authorize expenditures that are reasonably necessary or appropriate to administer and enforce KRS 198B.700 to 198B.738 and administrative regulations promulgated thereunder;
- (11) Establish continuing education requirements for licensed home inspectors in accordance with KRS 198B.722 and 198B.724;
- (12) Conduct disciplinary actions against licensees to include:
 - (a) Suspension, probation, or permanent revocation of a license;
 - (b) Requiring a licensee to obtain additional continuing education; and
 - (c) Issuance of a written reprimand;
- (13) Require all fee-paid home inspections to be conducted in accordance with the standards of practice of:
 - (a) The American Society of Home Inspectors;
 - (b) The National Association of Home Inspectors; or
 - (c) Any other approved standards of practice that are equal to the standards of practice of the organizations in paragraphs (a) and (b) of this subsection as determined by the board. The board may establish standards of practice for home inspectors licensed in Kentucky at a later date, which will supersede any other standards of practice previously adopted by the board and, if adopted by regulation, the standards in paragraphs (a) and (b) of this subsection;
- (14) Exercise all other powers specifically conferred on the board under KRS 198B.700 to 198B.738; and
- (15) Promulgate administrative regulations to carry out the effective administration and the requirements of KRS 198B.700 to 198B.738.

Effective: June 8, 2011

History: Amended 2011 Ky. Acts ch. 100, sec. 6, effective June 8, 2011. -- Amended 2008 Ky. Acts ch. 100, sec. 3, effective July 15, 2008. -- Created 2004 Ky. Acts ch. 109, sec. 4, effective July 13, 2004.

198B.710 Revolving fund.

- (1) There is established in the State Treasury a revolving fund for the use by the board.
- (2) All fees and other money received by the board in accordance with KRS 198B.706, 198B.712, 198B.714, 198B.722, and 198B.724 shall be deposited in the revolving fund established in subsection (1) of this section.
- (3) No part of this revolving fund shall revert to the general fund.
- (4) The compensation of board members and all of the board's expenses incurred by the board shall be paid from this revolving fund.

Effective: June 8, 2011

History: Amended 2011 Ky. Acts ch. 100, sec. 7, effective June 8, 2011. -- Amended 2008 Ky. Acts ch. 100, sec. 4, effective July 15, 2008. -- Created 2004 Ky. Acts ch. 109, sec. 6, effective July 13, 2004.

198B.712 License required -- Qualifications -- Application -- Insurance -- Fee.

- (1) An individual shall not advertise or claim to be a home inspector and shall not conduct a home inspection for compensation without first obtaining a license as a home inspector.
- (2) An individual shall not advertise as, claim to be, or engage in or work at the trade of home inspection unless an owner or employee of that business is a licensed home inspector.
- (3) The board shall deny a license to any applicant who fails to:
 - (a) Furnish evidence satisfactory to the board, showing that the individual:
 1. Is at least eighteen (18) years of age;
 2. Has graduated from high school or earned a Kentucky or other state's general educational development (GED) diploma; and
 3. Meets other criteria established by the board through promulgation of administrative regulations;
 - (b) Verify the information submitted on the application form;
 - (c) Complete a board-approved training program or course of study involving the performance of home inspections, and pass an examination prescribed or approved by the board;
 - (d) Submit to the board a certificate of insurance that is acceptable to the board and that:
 1. Is issued by an insurance company or other legal entity authorized to transact insurance business in Kentucky;
 2. Provides for general liability coverage of at least two hundred fifty thousand dollars (\$250,000);
 3. Lists the Kentucky Board of Home Inspectors as the certificate holder of any insurance policy satisfying the requirements of this paragraph;
 4. States that cancellation and nonrenewal of the underlying policy is not effective until the board receives at least ten (10) days' prior written notice of the cancellation or nonrenewal; and
 5. Contains any other terms and conditions established by the board; or
 - (e) Pay a licensing fee established in KRS 198B.706.
- (4) An individual applying for a license as a home inspector shall apply on a written or electronic form prescribed and provided by the board.

Effective: June 8, 2011

History: Amended 2011 Ky. Acts ch. 100, sec. 8, effective June 8, 2011. -- Amended 2008 Ky. Acts ch. 100, sec. 5, effective July 15, 2008. -- Amended 2005 Ky. Acts ch. 182, sec. 5, effective June 20, 2005. -- Created 2004 Ky. Acts ch. 109, sec. 7, effective July 13, 2004.

198B.714 Reciprocity for licensees of other states.

- (1) The licensing requirements for a home inspector may be waived for a person moving to Kentucky from another jurisdiction, and the person may be granted a license as a home inspector if:
 - (a) The other jurisdiction grants the same privileges to licensees of Kentucky as Kentucky grants to licensees of that other jurisdiction;
 - (b) The person is licensed in the other jurisdiction;
 - (c) The licensing requirements of the other jurisdiction are determined by the board to be substantially similar to the requirements of KRS 198B.700 to 198B.738; and
 - (d) The person states that he or she has studied, is familiar with, and will abide by KRS 198B.700 to 198B.738 and the administrative regulations promulgated by the board.

- (2) A person seeking a license as a home inspector under this section shall:
 - (a) Apply on a form prescribed and provided by the board; and
 - (b) Pay the applicable licensing fee established by the board.

Effective: June 8, 2011

History: Amended 2011 Ky. Acts ch. 100, sec. 9, effective June 8, 2011. -- Created 2004 Ky. Acts ch. 109, sec. 8, effective July 13, 2004.

198B.716 Nonresident licensees -- Service of process -- Credit for out-of-state training programs.

- (1) A nonresident whom the board determines meets the requirements of KRS 198B.700 to 198B.738 and who files the written consent described in subsection (2) of this section may be licensed as a home inspector in Kentucky.
- (2) A nonresident applicant shall file with the board a written consent stating that, if licensed:
 - (a) The applicant agrees to the commencement of any action arising out of the conduct of the applicant's business in Kentucky in the county in which the events giving rise to the cause of action occurred;
 - (b) The applicant:
 - 1. Agrees to provide to the board the name and address of an agent to receive service of process in Kentucky; or
 - 2. Consents to the board acting as the applicant's agent for the purpose of receiving service of process if:
 - a. An agent's name and address have not been filed with the board; or
 - b. The agent's name and address on file with the board are incorrect; and
 - (c) The applicant agrees that service of process in accordance with the Kentucky Rules of Civil Procedure is proper service and subjects the applicant to the jurisdiction of Kentucky courts.
- (3) The board may consider and accept the successful completion by a nonresident of a training program or course of study completed in another state in lieu of the requirements of KRS 198B.712(3)(c) if the board determines the training program or course of study meets or exceeds the requirements of KRS 198B.712(3)(c) and its implementing administrative regulations, or the board may give credit for such program or course of study towards meeting the requirements of KRS 198B.712(3)(c). The nonresident shall still be subject to the examination requirements of KRS 198B.712(3)(c).

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 100, sec. 11, effective July 15, 2008. -- Created 2004 Ky. Acts ch. 109, sec. 9, effective July 13, 2004.

198B.718 License remains property of board.

All licenses issued by the board shall remain the property of the board.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 109, sec. 10, effective July 13, 2004.

198B.720 Notification to board.

A licensee shall notify the board within thirty (30) days of any change of:

- (1) Name;
- (2) Name under which the licensee conducts business; or
- (3) Business address.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 109, sec. 11, effective July 13, 2004.

198B.722 Expiration of license -- Renewal -- Continuing education -- Inactive license.

- (1) The initial license for a home inspector issued in accordance with KRS 198B.700 to 198B.738, shall expire on the last day of the licensee's birth month in the following year. The board may reduce the license fee on a pro rata basis for initial licenses issued for less than twelve (12) months.
- (2) Renewed licenses shall expire on the last day of the licensee's birth month of each even numbered year after the date of issuance of the renewed license.
- (3) An individual who applies to renew a license as a licensed home inspector shall:
 - (a) Furnish evidence showing successful completion of the continuing education requirements of this section;
 - (b) Pay the renewal fee and late fee, if applicable, established by the board;
 - (c) Show proof of general liability insurance in the amount required by KRS 198B.712(3)(d); and
 - (d) Submit a recent background check performed by the Kentucky State Police.
- (4) Renewal notices shall be sent to each licensee at least sixty (60) days prior to the expiration of the license. The notice shall inform the licensee of the need to renew and the requirement of payment of the renewal fee.
- (5) Renewal and applicable late fees shall be paid with a credit card, a draft, a money order, a cashier's check, a certified or other personal check, or, if payment is made in person, the payment may be made in cash. If the board receives an uncertified personal check for the renewal fee and if the check does not clear the bank, the board may refuse to renew the license.
- (6) Each licensee shall complete the continuing education required by the board prior to applying for license renewal. This requirement shall not exceed thirty (30) hours per two (2) year license cycle.
- (7) The board may, through the promulgation of administrative regulations:
 - (a) Establish an inactive license for licensees who are not actively engaging in the home inspection business but wish to maintain their license;
 - (b) Reduce license and renewal fees for inactive licenses; and
 - (c) Waive the insurance requirements established in KRS 198B.712 for inactive licenses.

Effective: June 8, 2011

History: Amended 2011 Ky. Acts ch. 100, sec. 10, effective June 8, 2011. -- Amended 2008 Ky. Acts ch. 100, sec. 6, effective July 15, 2008. -- Created 2004 Ky. Acts ch. 109, sec. 12, effective July 13, 2004.

198B.724 Continuing education requirements.

The board shall promulgate administrative regulations concerning the continuing education required for the renewal of a home inspector license and shall:

- (1) Establish procedures for approving organizations that provide continuing education; and
- (2) Prescribe the content, duration, and organization of continuing education courses that contribute to the competence of home inspectors.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 109, sec. 13, effective July 13, 2004.

198B.726 Licensure or registration of home inspectors by agencies or political subdivisions prohibited.

- (1) As used in this section, "political subdivision" means any city, county, or consolidated local government.
- (2) No agency or political subdivision of the state, other than the board, shall impose the following on individuals licensed under KRS 198B.700 to 198B.738:
 - (a) A registration or licensing requirement; or
 - (b) A license fee to obtain any local license, except that this prohibition shall not prevent any local government from imposing an occupational license tax on any person operating as a home inspector within the jurisdiction of the local government.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 109, sec. 14, effective July 13, 2004.

198B.728 Disciplinary actions -- Sanctions.

The board shall take disciplinary actions against or impose sanctions on a licensee for failing to comply with any provision of KRS 198B.700 to 198B.738 or any administrative regulations promulgated to carry out KRS 198B.700 to 198B.738.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 109, sec. 15, effective July 13, 2004.

198B.730 Disciplinary hearings -- Emergency suspension -- Persons not licensed to show cause -- Cease and desist order.

- (1) The procedures set forth in KRS Chapter 13B shall govern the board's conduct of disciplinary hearings.
- (2) The board may summarily suspend a license for up to ninety (90) days before a final adjudication or during an appeal of the board's determination if the board finds that the licensee would represent a clear and immediate danger to the public's health, safety, or property if allowed to perform home inspections. The summary suspension may be renewed upon a hearing before the board for up to ninety (90) days.
- (3) If the board:
 - (a) Determines that an individual is not licensed under KRS 198B.700 to 198B.738 and is engaged in or believed to be engaged in activities for which a license is required under KRS 198B.700 to 198B.738, the board shall issue an order to that individual requiring the

individual to show cause why the individual should not be ordered to cease and desist from the activities. The show cause order shall set forth a date, time, and place for a hearing at which the individual shall appear and show cause why the individual should not be subject to licensing under KRS 198B.700 to 198B.738;

- (b) Prior to a hearing, the board may issue a cease and desist order that identifies the individual and describes activities that are the subject of the order.
- (4) A cease and desist order issued under this section shall be enforceable in a Circuit Court of the Commonwealth.

Effective: June 8, 2011

History: Amended 2011 Ky. Acts ch. 100, sec. 11, effective June 8, 2011. -- Created 2004 Ky. Acts ch. 109, sec. 16, effective July 13, 2004

198B.732 Prohibited activities -- Penalties -- Burden of proof.

- (1) An individual is guilty of a Class B misdemeanor if the individual:
 - (a) Performs or offers to perform home inspections for compensation in Kentucky without being licensed as a home inspector and without being exempt from licensing;
 - (b) Presents as the individual's own the license of another;
 - (c) Intentionally gives false or materially misleading information to the board or to a board member in connection with a licensing matter;
 - (d) Impersonates another licensee; or
 - (e) Uses an expired, suspended, revoked, or otherwise restricted license.
- (2) An individual is guilty of a Class A misdemeanor if the individual is convicted of a second or subsequent offense under this section within five (5) years of a prior conviction of an offense under this section.
- (3) When entering a judgment for an offense under this section, the court shall impose a service fee of an amount equal to any fee or other compensation earned by the individual in the commission of the offense.
- (4) Each transaction involving unauthorized activities as described in this section shall constitute a separate offense.
- (5) In all actions for the collection of a fee or other compensation for performing home inspections, the party seeking relief shall allege and prove that, at the time that the cause of action arose, the party seeking relief was not in violation of KRS 198B.712.

Effective: June 8, 2011

History: Amended 2011 Ky. Acts ch. 100, sec. 12, effective June 8, 2011. -- Amended 2010 Ky. Acts ch. 24, sec. 301, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 100, sec. 7, effective July 15, 2008. -- Created 2004 Ky. Acts ch. 109, sec. 17, effective July 13, 2004.

198B.738 Home inspectors prohibited from indicating compliance or noncompliance with Kentucky Residential Code.

Home inspectors, when acting in that capacity, are prohibited from indicating orally or in writing that any condition is or is not in compliance with the Kentucky Residential Code.

Effective: June 8, 2011

History: Amended 2011 Ky. Acts ch. 100, sec. 13, effective June 8, 2011. -- Amended 2008 Ky. Acts ch. 100, sec. 9, effective July 15, 2008. -- Created 2004 Ky. Acts ch. 109, sec. 20, effective July 13, 2004.

OPPORTUNITY TO CURE

411.270 Definitions for KRS 411.270 to 411.282.

As used in KRS 411.270 to 411.282, unless the context otherwise requires:

- (1) "Action" means any civil lawsuit or action in contract or tort for damages or indemnity brought against a home inspector to assert a claim, whether by complaint, counterclaim, or cross-claim, for damages or the loss of use of real or personal property caused by a deficient home inspection or home inspection report regarding the inspection of a home. "Action" does not include any civil action in tort alleging personal injury or wrongful death to a person or persons resulting from a deficient home inspection or home inspection report;
- (2) "Claimant" means a client who asserts a claim against a home inspector concerning a deficient home inspection or home inspection report regarding the inspection of a home;
- (3) "Home" means a structure consisting of at least one (1) but not more than four (4) units, each designed for occupancy by a single family, whether the units are occupied or unoccupied;
- (4) "Home inspector" means a person licensed in accordance with KRS 198B.700 to 198B.738; and
- (5) "Serve" or "service" means personal service or delivery by certified mail to the last known address of the addressee.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 109, sec. 21, effective July 13, 2004.

Legislative Research Commission Note (7/13/2004). In 2004 Ky. Acts ch. 109, sec. 21, directed that this section be created as a new section of KRS Chapter 21, the statute has been codified in KRS Chapter 411 because it is clear from the subject matter of this statute, the structure of ch. 109, and the range created by ch. 109, secs. 21 to 27, that placement in KRS Chapter 411 was intended. See KRS 7.136(1)(a) and (h).

Legislative Research Commission Note (7/13/2004). In 2004 Ky. Acts ch. 109, sec. 21, subsec. (4), "home inspector" is defined as "a person licensed in accordance with Sections 1 to 27 of this Act." Because the home inspector licensure provisions in ch. 109 are confined to Sections 1 to 20, and Sections 21 to 27 set forth notice and opportunity to repair procedures that must be followed prior to bringing an action for damages against a home inspector, the reference to Sections 1 to 27 in subsection (4) has been changed by the Reviser of Statutes to the statutes at which Sections 1 to 20 are codified. See KRS 7.136(1)(a) and (h).

411.272 Scope of KRS 411.270 to 411.282.

KRS 411.270 to 411.282 shall:

- (1) Apply to any claim that arises before, on, or after July 15, 2004, as the result of a deficient home inspection or home inspection report regarding the inspection of a home, except a claim for personal injury or wrongful death, if the claim is the subject of an action commenced on or after July 15, 2004;
- (2) Prevail over any conflicting law otherwise applicable to the claim or cause of action;
- (3) Not bar or limit any claim or defense otherwise available except as otherwise provided in KRS 411.270 to 411.282; and

- (4) Not create a new theory upon which liability may be based.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 109, sec. 22, effective July 13, 2004.

411.274 Circumstances under which home inspector liable.

In a claim to recover damages resulting from a deficient home inspection or home inspection report regarding the inspection of a home, a home inspector is liable for his or her acts or omissions or the acts or omissions of his or her agents or employees and is not liable for any damages caused by:

- (1) The acts or omissions of a person other than the home inspector or his or her agent or employee; or
- (2) Any construction defect disclosed to a claimant before his or her purchase of the home, if the disclosure was provided in writing and in language that is understandable and was signed by the claimant.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 109, sec. 23, effective July 13, 2004.

411.276 Written notice of claim required -- Offer to remedy or settle -- Acceptance or rejection of offer -- Tolling of statute of limitations.

- (1) In every deficient home inspection or home inspection report action brought against a home inspector, the claimant shall serve written notice of claim on the home inspector. The notice of claim shall state that the claimant asserts a deficient home inspection or home inspection report claim against the home inspector and shall describe the claim in reasonable detail sufficient to determine the general nature of the deficiency.
- (2) Within twenty-one (21) days after service of the notice of claim, the home inspector shall serve a written response on the claimant by registered mail or personal service. The written response shall:
 - (a) Propose to inspect the residence that is the subject of the claim and to complete the inspection within a specified time frame. The proposal shall include the statement that the home inspector shall, based on the inspection, offer to remedy the defect, compromise by payment, or dispute the claim;
 - (b) Offer to compromise and settle the claim by monetary payment without inspection; or
 - (c) State that the home inspector disputes the claim.
- (3)
 - (a) If the home inspector disputes the claim or does not respond to the claimant's notice of claim within the time stated in subsection (2) of this section, then the claimant may bring an action against the home inspector for the claim described in the notice of claim without further notice.
 - (b) If the claimant rejects the inspection proposal or the settlement offer made by the home inspector pursuant to subsection (2) of this section, then the claimant shall serve written notice of the claimant's rejection on the home inspector. After service of the rejection, the claimant may bring an action against the home inspector for the deficient home inspection or home inspection report claim described in the notice of claim. If the home inspector has not received from the claimant, within thirty (30) days after the claimant's receipt of the home inspector's response, either an acceptance or a rejection of the inspection proposal or settlement offer, then at any time thereafter the home inspector may terminate the proposal or offer by serving written notice to the claimant, and the

- claimant may thereafter bring an action against the home inspector for the deficient home inspection or home inspection report claim described in the notice of claim.
- (4) (a) If the claimant elects to allow the home inspector to inspect in accordance with the home inspector's proposal pursuant to subsection (2)(a) of this section, then the claimant shall provide the home inspector reasonable access to the claimant's home during normal working hours to inspect the premises.
- (b) Within fourteen (14) days following completion of the inspection, the home inspector shall serve on the claimant:
1. A written offer to remedy the defect at no cost to the claimant, including a report of the scope of the inspection, the findings and results of the inspection, a description of the remedy necessary to cure the defect described in the claim, and a timetable for the completion of this remedy;
 2. A written offer to compromise and settle the claim by monetary payment pursuant to subsection (2)(b) of this section; or
 3. A written statement that the home inspector will not proceed further to remedy the defect. The claimant shall have the right to accept or reject the proposed remedy, or the monetary offer to settle the claim.
- (c) If the home inspector does not proceed further to remedy the defect within the agreed timetable, or if the home inspector fails to comply with the provisions of paragraph (b) of this subsection, then the claimant may bring an action against the home inspector for the claim described in the notice of claim without further notice.
- (d) If the claimant rejects the offer made by the home inspector pursuant to paragraph (b)1. or 2. of this subsection to either remedy the defect or to compromise and settle the claim by monetary payment, then the claimant shall serve written notice of the claimant's rejection on the home inspector. After service of the rejection notice, the claimant may bring an action against the home inspector for the deficient home inspection or home inspection report claim described in the notice of claim. If the home inspector has not received from the claimant, within thirty (30) days after the claimant's receipt of the home inspector's response, either an acceptance or a rejection of the offer made pursuant to paragraph (b)1. or 2. of this subsection, then at any time thereafter the home inspector may terminate the offer by serving written notice to the claimant.
- (5) (a) Any claimant accepting the offer of a home inspector to remedy the defect pursuant to subsection (4)(b)1. of this section shall do so by serving the home inspector with a written notice of acceptance within a reasonable time period after receipt of the offer, and no later than thirty (30) days after receipt of the offer. The claimant shall provide the home inspector reasonable access to the claimant's home during normal working hours to perform and complete the remedy by the timetable stated in the offer.
- (b) The claimant and home inspector may, by written mutual agreement, alter the extent of remedy or the timetable, including but not limited to repair of additional defects.
- (6) If a claimant files a complaint, counterclaim, or cross-claim prior to meeting the requirements of this section, then the court may issue an order holding the action in abeyance until the parties comply with this section.
- (7) Nothing in this section may be construed to prevent a claimant from commencing an action on the deficient home inspection or home inspection report claim described in the notice of claim if the home inspector fails to perform the remedy agreed upon or fails to perform by the timetable agreed upon pursuant to subsection (2)(a) or (5) of this section.
- (8) The service of an amended notice of claim shall relate back to the original notice of claim for purposes of tolling statutes of limitations and repose.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 109, sec. 24, effective July 13, 2004.

411.278 Notice of home inspector's right to cure before commencement of litigation -- Action not barred if home inspector fails to give notice.

- (1) The home inspector shall, upon entering into a contract for the inspection of a building or residence, provide notice to each client of the home inspector's right to offer to cure a deficient home inspection or home inspection report before a client may commence litigation against the home inspector. The notice shall be conspicuous and may be included as part of the underlying contract signed by the client.
- (2) The notice required by this section shall be in substantially the following form: "CHAPTER 411 OF THE KENTUCKY REVISED STATUTES CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST THE HOME INSPECTOR OF YOUR RESIDENCE. YOU MUST DELIVER TO YOUR HOME INSPECTOR A WRITTEN NOTICE OF ANY CONDITIONS YOU ALLEGE THAT YOUR HOME INSPECTOR FAILED TO INCLUDE IN THE HOME INSPECTION REPORT AND PROVIDE YOUR HOME INSPECTOR THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE HOME INSPECTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT."
- (3) KRS 411.270 to 411.282 shall not preclude or bar any action if notice is not given to the client as required by this section.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 109, sec. 25, effective July 13, 2004.

411.280 Construction of KRS 411.270 to 411.282.

- (1) Nothing in KRS 411.270 to 411.282 shall be construed to hinder or otherwise affect the employment, agency, or contractual relationship between and among homeowners and home inspectors during the process of inspection, and nothing in KRS 411.270 to 411.282 precludes the termination of those relationships as allowed under other law.
- (2) Noncompliance by the client with KRS 411.276 shall not operate as an affirmative defense in an action against a home inspector by the client for emergency repairs.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 109, sec. 26, effective July 13, 2004.

411.282 Effect of notice of claim on statute of limitations.

If a written notice of claim is served under KRS 411.276, then the statute of limitation for the underlying action is tolled until seventy-five (75) days after the expiration of the time frame agreed to by the parties under KRS 411.276(2), or the date established for inspection pursuant to KRS 411.276(2)(a), or the expiration of the time frame contained in KRS 411.276(4)(b), whichever occurs later.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 109, sec. 27, effective July 13, 2004.

413.246 Action for damages based on professional services rendered by a licensed home inspector.

- (1) An action for damages, whether brought in contract or tort, or on any other basis, based on professional services that were rendered or that should have been rendered by a licensed home inspector under KRS 198B.700 to 198B.738 shall not be brought, commenced, or maintained unless the action is filed within one (1) year of the time that the claimant knew or should have known of a deficient inspection and damages and injuries resulting therefrom.
- (2) Nothing in this section creates any duty to a third party that is not available under common law.
Effective: July 15, 2008
History: Repealed, reenacted, and amended 2008 Ky. Acts ch.100, sec.10, effective July 15, 2008.
-- Created 2004 Ky. Acts ch.109, sec.18, effective July 13, 2004.
Formerly codified as KRS 198B.734

KENTUCKY ADMINISTRATIVE REGULATIONS

815 KAR 6:010. Home inspector licensing requirements and maintenance of records.

RELATES TO: KRS 198B.700, 198B.706, 198B.712, 198B.714, 198B.716, 198B.722, 198B.724, 198B.738

STATUTORY AUTHORITY: KRS 198B.706, 198B.722

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.706(1) and (15) require the Kentucky Board of Home Inspectors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.700 to 198B.738 and to establish requirements for licensing and certification as well as prescribing forms and applications. KRS 198B.706(7) requires the board to promulgate administrative regulations to provide for the inspection of the records of a licensee. KRS 198B.706(11) requires the board to establish continuing education requirements. KRS 198B.722 requires the board to establish requirements for renewal of licenses and authorizes the board to establish an inactive license This administrative regulation establishes the licensure and record requirements for home inspectors.

Section 1. Definitions.

- (1) "Applicant" is defined by KRS 198B.700(1).
- (2) "Board" is defined by KRS 198B.700(2).
- (3) "Contact hour" means fifty (50) minutes of instruction, exclusive of breaks, recesses, or other time not spent in instruction.
- (4) "Licensee" is defined by KRS 198B.700(7)

Section 2. Application Requirements.

- (1) An applicant for a home inspector license shall submit the following:
 - (a) A completed Application for Licensure as a Kentucky Home Inspector, Form KBHI 1;
 - (b) A two (2) inch by two (2) inch passport photograph affixed to the application form;

- (c) A certificate of course completion and the applicant's national examination test score;
 - (d) A certificate of insurance;
 - (e) If applicable, other state or local licensure, certification, registration, or permit;
 - (f) A report with the results of the state-wide background check; and
 - (g) A nonrefundable fee of \$250.
- (2) An applicant for a home inspector license shall:
- (a) Complete and pass a board-approved, preclicensing training course administered by a provider who has been approved by the board in accordance with 815 KAR 6:040 and subsection (8) of this section; and
 - (b) Pass an examination conducted by a board-approved test provider.
- (3) A request to sit for the examination shall be made directly to the test provider.
- (4) The examination fee shall be set by the testing company and shall be paid directly to the test provider.
- (5) A passing score on the examination shall be valid for a period of three (3) years.
- (6) Failing the examination.
- (a) An applicant who fails to pass the examination two (2) times shall wait at least fourteen (14) calendar days from the date of the second failed examination prior to retaking the examination.
 - (b) An applicant who fails to pass the examination three (3) or more times shall wait at least thirty (30) calendar days from the date of the third or subsequent failed examination failed examination prior to retaking the examination.
 - (c) An applicant who fails to pass the examination three (3) times shall not be eligible to retake the examination until the applicant has again completed and again passed the preclicensing training course required by subsection (2)(a) of this section before retaking the examination a fourth time, and also for each subsequent examination failure thereafter.
- (7) Procedures and conduct.
- (a) The applicant shall follow:
 - 1. Procedures and appropriate conduct established by the board or testing service administering an examination if the procedures and conduct requirements are provided or made available to each applicant or orally announced before the start of the examination; and
 - 2. Written instructions communicated prior to the examination date and instructions communicated at the testing site, either written or oral, on the date of the examination.
 - (b) 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.
- (8) Course requirements. To be approved by the board, a preclicensing training course shall require a minimum of:
- (a) Sixty-four (64) credit hours of training in the following subject areas for at least the number of hours specified:
 - 1. Manufactured housing: three (3) hours;
 - 2. Standards of practice, KRS 198B and 815 KAR Chapter 6, contracts, report writing, and communications: eleven (11) hours;
 - 3. Exterior, roofing, insulation, and ventilation: six (6) hours;
 - 4. Structure and interior: nine (9) hours;
 - 5. Electrical and plumbing: nine (9) hours;
 - 6. Heating and air conditioning: six (6) hours;
 - 7. Field training: sixteen (16) hours, including not more than eight (8) hours in a laboratory;

- 8. General residential construction: three (3) hours; and
- 9. Environmental hazards, mitigation, water quality, and indoor air quality: one (1) hour;
- (b) The completion of three (3) unpaid home inspections with satisfactory written reports submitted to the course provider in addition to the sixteen (16) hours of field training required by paragraph (a)7 of this subsection; and
- (c) An exit examination with a passing score.
- (9) Criminal background checks and other disciplinary proceedings.
 - (a) Each applicant shall undergo a state-wide criminal background check administered by a law enforcement agency capable of conducting a state-wide background check and submit the results of the check along with the applicant's application.
 - (b) If an applicant has resided in a state for less than five (5) years prior to application, the applicant shall also obtain and submit a state-wide criminal background check by a law enforcement agency capable of conducting a state-wide background check from the state where the applicant previously resided.
 - (c) The board shall deny or refuse to renew a license to an applicant or licensee based on the seriousness of the offense, the length of time since the offense, and the applicant's or licensee's showing of remorse, rehabilitation, and restitution by clear and convincing evidence, who:
 - 1. Has pleaded guilty to or has been convicted of a:
 - a. Felony; or
 - b. Misdemeanor; or
 - 2. Has had disciplinary action taken against a professional license, certificate, registration, or permit held by the applicant or licensee in any jurisdiction or state, including Kentucky.

Section 3. Reciprocity. An applicant seeking a license through reciprocity in accordance with KRS 198B.714 shall:

- (1) Submit a completed Application for Licensure as a Kentucky Home Inspector, Form KBHI 1, and attachments established in Section 2(1)(b) through (f) of this administrative regulation;
- (2) Pay a nonrefundable fee of \$250; and
- (3) Meet the conditions of KRS 198B.714(1).

Section 4. Nonresident Licensees. A nonresident licensee shall:

- (1) Submit a completed Application for Licensure as a Kentucky Home Inspector, Form KBHI 1, and attachments established in Section 2(1)(b) through (f) of this administrative regulation;
- (2) Pay the fee established in Section 2(1)(g) of this administrative regulation; and
- (3) Comply with the provisions established in KRS 198B.716 and this administrative regulation.

Section 5. Renewal of Licenses. In addition to the requirements established in KRS 198B.722, to renew a license, the licensee shall:

- (1) Satisfy the continuing education requirements of Section 6 of this administrative regulation;
- (2) Pay a nonrefundable renewal fee of \$200 per year for each license that expires on or after July 1, 2012, to and including June 30, 2014; or
- (3) Pay a nonrefundable renewal fee of \$250 per year for each license that expires on or after July 1, 2014;
- (4) Submit a fully-completed Application for Renewal Licensure as a Kentucky Home Inspector, Form

KBHI 2 and attachments, including:

- (a) A certificate of completion for continuing education;
 - (b) A certification of insurance information;
 - (c) If applicable, other state or local licensure, certification, registration, or permit; and
 - (d) A state-wide criminal background check; and
- (5) Submit a copy of a completed inspection report that has been compiled within the previous twelve (12) months immediately preceding renewal.

Section 6. Continuing Education.

- (1) The continuing education requirements of this section shall apply only to those licensees who will have been licensed at least twelve (12) months at license renewal.
- (2) Each licensee shall be required to have at least fourteen (14) hours of continuing education per license year.
- (3) Prior to renewal, the continuing education shall include a minimum of the following:
- (a) Three (3) hours in manufactured housing;
 - (b) Three (3) hours in KRS 198B and 815 KAR Chapter 6; and
 - (c) Eight (8) hours in technical courses, including identification, determination, and report writing as applicable within the standards of practice.
- (4) Continuing education shall be obtained from those providers approved by the board as provided in 815 KAR 6:040.
- (5) An approved preclicensing course shall to satisfy the initial fourteen (14) hour continuing education requirement.
- (6) A maximum of three (3) hours per license year shall be awarded for teaching part of a home inspection credit course or home inspection continuing education course as applied to the appropriate content area established in subsection (3)(a) through (c) of this section.
- (7) A maximum of three (3) hours per license year shall be awarded for appointment to the board for a board member who is licensed and who has attended not less than eighty percent (80) percent of the board meetings each license year as applied to the content area established in subsection (3)(b) of this section.

Section 7. Inactive License.

- (1) Placement of a license in inactive status.
- (a) 1. To place a license in inactive status, a licensee shall submit a notarized statement indicating the desire to have the license placed in inactive status.
 - 2. This notarized statement shall be mailed to the board and shall be accompanied by the following:
 - a. A check for ten (10) dollars made payable to the Kentucky State Treasurer;
 - b. The actual license card of the licensee; and
 - c. A current mailing address for the licensee.
 - (b) Licensees in inactive status shall not engage in home inspection activities within the Commonwealth of Kentucky.
- (2) Renewal of license in inactive status.
- (a) A licensee with an inactive license shall pay an annual inactive status fee equal to fifty (50) percent of the current renewal fee for an active license.

(b) Failure to pay this annual fee shall result in the expiration of the license on the last day of the licensee's birth month.

(3) Insurance coverage for licensees with inactive license. A licensee with an inactive status license shall not be required to maintain the insurance coverage required by KRS 198B.712(3)(d) during inactive status.

Section 8. Reactivation of Inactive License to Active Status.

(1) A licensee who wishes to reactivate a license shall contact the board and submit a notarized statement requesting approval to return to active status.

(2) This request shall be accompanied by the following:

(a) The name of the licensee requesting activation;

(b) The license number of the licensee requesting reactivation;

(c) The birth date of the licensee requesting reactivation;

(d) A current mailing address for the licensee requesting reactivation;

(e) A check in the amount of ten (10) dollars made payable to the Kentucky State Treasurer;

(f) Proof of liability insurance naming the individual in the amount of \$250,000 as required by KRS 198B.712(3)(d);

(g) A state-wide criminal background check administered by a law enforcement agency capable of conducting a state-wide background check; and

(h) Proof of continuing education as required by Section 9 of this administrative regulation; and

(3) A license that has been inactive for a period of five (5) years from the date of board action shall be considered expired.

Section 9. Continuing Education Requirements for Licensees in Inactive Status Returning to Active Status. A licensee with an inactive status who wishes to reactivate the license shall complete the following continuing education requirements prior to application to return to active status:

(1) Fourteen (14) hours per year that the license has been inactive. This fourteen (14) hours shall include:

(a) Three (3) hours in manufactured housing;

(b) Three (3) hours of KRS 198B and 815 KAR Chapter 6; and

(c) Eight (8) hours, in any combination, of:

1. Electrical;

2. Plumbing;

3. Heating, ventilation, and air conditioning;

4. Roofing; or

5. Report writing.

(2) A board approved sixty-four (64) hour prelicensing training course may be used to satisfy this requirement.

Section 10. Maintenance of Records.

(1) Address.

(a) A license holder shall report a change of address to the board in writing within ten (10) days after the change.

(b) The board shall not be responsible for the license holder's failure to receive notices, communications, and correspondence caused by the license holder's failure to promptly notify the

board of a change of address.

(2) Names.

(a) A license holder shall notify the board in writing of a name change within thirty (30) days of the change.

(b) The notification shall be accompanied by a copy of a marriage certificate, divorce decree, court order, or other documentation that verifies the name change.

(c) The board shall not be responsible for the license holder's failure to receive notices, communications, and correspondence caused by the license holder's failure to promptly notify the board of a name change.

(3) Inspection records.

(a) A licensed home inspector shall retain the following records for at least a period of three (3) years from the date of the inspection:

1. The written reports;
2. The contract; and
3. Supporting documentation, if applicable.

(b) Records may be retained in retrievable, electronic format.

(c) The licensee shall provide all records requested by the board within ten (10) days of receipt of the request.

Section 11. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Application for Licensure as a Kentucky Home Inspector", Form KBHI 1, 1-2012; and
- (b) "Application for Renewal Licensure as a Kentucky Home Inspector", Form KBHI 2, 1-2012.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601 Monday through Friday, 8 a.m. to 5 p.m.

CONTACT PERSON: Tony Crockett, Board Administrator, Office of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, phone (502) 564-3296, fax (502) 564-4818.

815 KAR 6:020. Advertising by home inspectors.

RELATES TO: 198B.706(15), 198B.712, EO 2009-535

STATUTORY AUTHORITY: 198B.706, EO 2009-535

NECESSITY, FUNCTION AND CONFORMITY: KRS 198B.706 requires the Kentucky Board of Home Inspectors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.700 to 198B.738. necessary to enforce the provisions of KRS 198B.700 to 198B.738. EO 2009-535, effective June 12, 2009, reorganized the Office of Housing, Buildings and Construction as the Department of Housing, Buildings and Construction, and established the commissioner, rather than executive director, as the head of the department. This administrative regulation establishes guidelines for advertising by home inspectors, so that customers and citizens may properly identify licensed inspectors.

Section 1. License Number to be Displayed. Except as provided in Section 2 of this administrative regulation, every person claiming to be a home inspector shall identify his or her license number in all advertising disseminated, either directly or indirectly, to the general public.

Section 2. Exceptions. This administrative regulation shall not apply to novelty items distributed by the licensed home inspector.

Section 3. Vehicle Identification.

- (1) A vehicle used in advertising the operation of a home inspector business shall bear the license number of the home inspector in a conspicuous location and shall be composed of letters and numbers not less than two (2) inches high.
- (2) The numbers and letters of the license shall be visible and legible while the vehicle is being operated.

Section 4. Business Entities. If the home inspector is operating under the name of a business entity, the requirements of this administrative regulation shall be satisfied by displaying the license number of one the owner or an employee of the business who is a licensed home inspector. (32 Ky.R. 2402; Am. 33 Ky.R. 779; eff. 10-6-2006; 36 Ky.R. 687; 1037; eff. 12-4-2009.)

815 KAR 6:030. Home inspector standards of conduct.

RELATES TO: 198B.706, 198B.728

STATUTORY AUTHORITY: 198B.706

NECESSITY, FUNCTION AND CONFORMITY: KRS 198B.706(15) requires the Kentucky Board of Home Inspectors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.700 to 198B.738. KRS 198B.706(13) authorizes the board to establish standards of practice for home inspectors. This administrative regulation establishes standards of conduct for home inspectors.

Section 1. Standards of Conduct. A licensed home inspector or an entity under which the inspector conducts business, shall:

- (1) Act as an unbiased third party to the real estate transaction;
- (2) Discharge the duties of a home inspector with integrity and fidelity to the client;
- (3) Express an opinion on any aspect of the inspected property only if that opinion is based upon the experience, training, education, and personal opinion of the inspector;
- (4) Provide a written disclosure to the client of any interest the inspector maintains in the transaction and advise the client to obtain competitive bids before products or additional services are offered by the licensee including:
 - (a) Products or additional services to be purchased from or provided by the inspector, his agents, or employees;
 - (b) Products or additional services to be purchased from or provided by any entity, organization, or venture in which the inspector has an interest; or
 - (c) Products or additional services to be purchased which will result in any additional compensation or benefit to the inspector, financial or otherwise; and
- (5) Provide the license number, following the licensee's signature, on any document signed by the home inspector pertaining to the home inspection.

Section 2. Additional Standards. In addition to the affirmative duties imposed by Section 1 of this administrative regulation, a licensed home inspector or an entity under which the licensee conducts business, shall not:

- (1) Engage in or knowingly cooperate in the commission of fraud or material deception to obtain a license to engage in the practice of home inspection, including cheating on the licensing examination;
- (2) Perform repairs or modifications for compensation, or for other direct or indirect financial benefit, to a residential dwelling within twelve (12) months after performing a home inspection on the same residential dwelling, if the repairs or modifications are based upon the findings in the

- home inspection report. This subsection shall not apply if the home inspector purchases the residence after performing the inspection;
- (3) Provide a home inspection to the client that does not conform to the Standards of Practice selected on the initial application for licensure or the application for renewal submitted pursuant to 815 KAR 6:010;
 - (4) Provide services that constitute the unauthorized practice of any profession that requires a special license if the home inspector does not hold that license;
 - (5) Provide any compensation, inducement, or reward, either directly or indirectly, to any person or entity other than the client for the referral of business to the inspector. The purchase or use of advertising, marketing services, or products shall not be considered compensation, inducement, or reward;
 - (6) Conduct a home inspection or prepare a home inspection report for which the inspector's fee is contingent upon the conclusions contained in the report;
 - (7) Misrepresent the financial interests, either personally or through his or her employment, of any of the parties to the transfer or sale of a residential dwelling upon which the licensee has performed a home inspection;
 - (8) Disclose any information concerning the results or content of the home inspection report without the written approval of the client for whom the home inspection was performed. However, the home inspector may disclose information if there is an imminent danger to life, health, or safety, or where the home inspector is compelled to disclose information by court order;
 - (9) Accept compensation, financial or otherwise, from more than one (1) interested party for the same home inspection on the same property without the written consent of all interested parties;
 - (10) Make a false or misleading representation regarding:
 - (a) The condition of a residential dwelling for which the licensee has performed or contracted to perform a home inspection;
 - (b) The extent of the services the licensee has performed or will perform; or
 - (c) The type of license held by the licensee;
 - (11) Be convicted of a crime in the course of the practice of home inspection or commit any act constituting a violation of state law during the course of a home inspection;
 - (12) Make a false or misleading representation:
 - (a) In a license or renewal application form; or
 - (b) In information provided to the board;
 - (13) Fail to pay any fees required by 815 KAR 6:010;
 - (14) Fail to continuously maintain the insurance or other evidence of financial responsibility required by KRS Chapter 198B or 815 KAR Chapter 6;
 - (15) Engage in any course of lewd or immoral conduct in connection with the delivery of services to clients;
 - (16) Fail to complete the continuing education requirements established by the board in 815 KAR 6:010;
 - (17) Use the term "certified" in advertising, unless the certification is current and the full name of the certifying body is clearly identified;
 - (18) Use the term "fully insured," unless the person or entity has business liability and worker's compensation insurance coverage in effect at the time of the advertisement; or
 - (19) Continue to practice, if the licensed home inspector has become unfit to practice due to:
 - (a) Professional incompetence;
 - (b) Failure to keep abreast of current professional theory or practice;
 - (c) Physical or mental disability;
 - (d) Addiction to, abuse of, or severe dependency on, alcohol or other drugs that endanger the public by impairing a licensed home inspector's ability to practice safely; or
 - (e) Failure to maintain a valid home inspector's license.

Section 3. Disciplinary Actions and Appeals.

- (1) Pursuant to KRS 198B.728, the board may investigate complaints related to violations of this administrative regulation and may impose the following penalties:
 - (a) Denial of a license;
 - (b) Suspension of a license; or
 - (c) Revocation of a license.
- (2) The licensee shall be notified of the proposed penalties in writing sent to the licensee's address on file with the board.
- (3) If a licensee chooses to appeal a proposed penalty, the licensee shall notify the board of his appeal in writing within ten (10) days of the notice of the proposed penalty.
- (4) All appeal proceedings shall be conducted in accordance with KRS Chapter 13B. (32 Ky.R. 2403; 33 Ky.R. 780; eff. 10-6-2006.)

815 KAR 6:040. Home inspector preclicensing and continuing education providers.

RELATES TO: KRS 198B.712, 198B.722, 198B.724

STATUTORY AUTHORITY: KRS 198B.706, 198B.712(2)(c), 198B.724

NECESSITY, FUNCTION AND CONFORMITY: KRS 198B.706(15) requires the Kentucky Board of Home Inspectors to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.700 to 198B.738 and to establish requirements for continuing education. KRS 198B.712(2)(c) requires an applicant to complete a board-approved training program or course of study. KRS 198B.724 requires the board to establish continuing education requirements. This administrative regulation establishes the procedures for being approved as a preclicensing or a continuing education provider.

Section 1. Definitions.

- (1) "Board" is defined in KRS 198B.700(2).
- (2) "Contact hours" means fifty (50) minutes of instruction, exclusive of any breaks, recesses, or other time not spent in instruction.
- (3) "Continuing education provider" means the person or legal entity who is registered pursuant to this administrative regulation and who is responsible for conducting a continuing education course approved pursuant to this administrative regulation.
- (4) "Preclicensing course provider" means the person or legal entity who is registered pursuant to this administrative regulation and who is responsible for conducting a course approved pursuant to this administrative regulation.

Section 2. Registration Requirements.

- (1) Applicants to be a preclicensing course provider shall submit the following:
 - (a) A properly completed "Application for Approval as a Pre-Licensing Course Provider for Home Inspectors", Form KBHI 3;
 - (b) A nonrefundable fee of \$500;
 - (c) Information required to demonstrate that its course meets the requirements of 815 KAR 6:010, Section 2(8); and
 - (d) A surety bond in a form acceptable to the board and in the amount of \$50,000.
- (2) Applicants to be a continuing education course provider shall submit the following:
 - (a) A properly completed "Application for Approval as a Continuing Education Course Provider for Home Inspectors", Form KBHI 4; and
 - (b) A nonrefundable fee of \$100.

Section 3. Renewals.

- (1) Provider registration shall expire every two (2) years.

- (2) To renew its registration, each provider shall submit the application and fee required for initial registration.

Section 4. Required records.

- (1) Each provider shall maintain the following records with respect to each course:
 - (a) The time, date, and place each course is completed;
 - (b) The name, address, and qualifications of each instructor who teaches any portion of the course and whether each instructor has been approved by the board;
 - (c) The name, address, and license number, if applicable, of each person who registered for the course;
 - (d) The original sign-in sheet used at the site of the course to register persons who attend each course. The sign-in sheet shall require every person to print their name, list their license number, if applicable, and sign their name;
 - (e) The course syllabus used for each course; and
 - (f) The course evaluations.
- (2) The provider shall issue to each person who successfully completes an approved course, a certificate of completion containing the following:
 - (a) The name of the attendee;
 - (b) The license number, if applicable, of the attendee;
 - (c) The name of the provider;
 - (d) The course name;
 - (e) The course number;
 - (f) The date of the course; and
 - (g) The total number of contact hours successfully completed in each subject covered by the course.
- (3) Each provider shall maintain its records for at least three (3) years after the completion of each course. These records shall be submitted to the board or its agents upon request.
- (4) Each provider shall submit to the board, in writing, notice of any changes in the information provided in the initial registration of the provider. The notification shall be made within thirty (30) days following the date the change is effective.

Section 5. Approval of Continuing Education Courses.

- (1) A continuing education provider shall submit a request for approval of a continuing education course which shall include the following:
 - (a) The total number of contact hours;
 - (b) The course syllabus;
 - (c) A detailed outline of the contents of the course;
 - (d) The name and qualifications of all instructors known at the time of the request for approval; and
 - (e) The minimum qualifications of any instructors not known at the time of the request for approval.
- (2) The fee for course approvals shall be twenty-five (25) dollars per class, per date offered. A continuing education provider shall not pay in excess of \$250 in course approval fees in any one (1) year.
- (3) The board shall approve continuing education courses which:
 - (a) Appropriately relate to the general business skills or the technical skills required of licensees;
 - (b) Contain sufficient educational content to improve the quality of licensee performance;
 - (c) Are taught by qualified instructors; and
 - (d) Have a course evaluation.

- (4) Continuing education course approval shall be valid for two (2) years from date of issue if no substantial change is made in the course and if the registration of the provider has not expired or been suspended or revoked. Substantial changes made in any course shall require a new approval of that course. A provider shall reapply for course approval ninety (90) days prior to the date of expiration of the previous course approval.
- (5) A course which has been denied may be resubmitted to the board with modifications.
- (6) If a course is approved, the board shall assign the course a number. The course provider shall use the course number in the course syllabus, in all other course materials used in connection with the course, and in all written advertising materials used in connection with the course.

Section 6. Qualifications of Course Instructors.

- (1) All course instructors shall be qualified, by education or experience, to teach the course, or parts of a course, to which the instructor is assigned.
- (2) Any person with a four (4) year college degree or graduate degree shall be qualified to teach a continuing education or prelicensing course in their field of study.
- (3) A licensee whose license is suspended or revoked as a result of board discipline shall not teach or serve as a course instructor during the time the license is suspended or revoked.
- (4) A course provider may request prior approval by the board regarding the qualifications of a particular instructor for a particular course.

Section 7. Course Syllabus.

- (1) Each course shall have a course syllabus that identifies:
 - (a) The name of the course;
 - (b) The number of the course assigned by the board;
 - (c) The name and address of the provider; and
 - (d) A description or outline of the contents of the course.
- (2) Each person who registers for a course shall be given the course syllabus prior to the beginning of the course. The syllabus may be distributed when the person registers their attendance at the course.

Section 8. Course Advertising.

- (1) A provider shall not advertise a course as one approved until the approval is granted by the board.
- (2) A provider shall not include any false or misleading information regarding the contents, instructors, or number of contact hours of any course approved under this administrative regulation.
- (3) A provider shall include its provider number and course numbers in all advertising.

Section 9. Disciplinary Matters.

- (1) The board may deny, suspend, or revoke the registration of any prelicensing course or continuing education provider for any of the following acts or omissions:
 - (a) Obtaining or attempting to obtain registration or approval through fraud, deceit, false statements, or misrepresentation;
 - (b) Failing to provide complete and accurate information in the initial registration or in any notification of change in information;
 - (c) Failing to timely notify the board of a change in the information required for registration of the provider;
 - (d) Falsifying of any records regarding the courses conducted by the provider or the persons who attended the courses offered;
 - (e) Failing to maintain any required records regarding course offerings conducted by the provider or the persons who attended the course;

- (f) Failing to adequately train the staff responsible for taking attendance at any approved course;
 - (g) Failing to provide the board with copies of any document or other information required to be maintained by the provider pursuant to this administrative regulation;
 - (h) Advertising that a provider has been approved by the board prior to the date the approval is granted;
 - (i) Failing to include provider and course numbers in advertisements;
 - (j) Failing to maintain a record of instructors;
 - (k) Failing to resolve attendance reporting problems; and
 - (l) Failing to comply with any other duty imposed on providers in this administrative regulation.
- (2) Disciplinary action shall be initiated by the board by written notice to the provider by certified mail, return receipt requested, to the provider's address on file with the board.
 - (3) A provider may appeal a proposed disciplinary action by notifying the board in writing within ten (10) days of its desire to appeal.
 - (4) All appeals shall be governed in accordance with KRS Chapter 13B.
 - (5) A provider whose registration has been revoked shall not reapply for registration for two (2) years from the date of revocation.

Section 10. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Application for Approval as a Prelicensing Course Provider for Home Inspectors, Form KBHI 3", April, 2006; and
 - (b) "Application for Approval as a Continuing Education Course Provider for Home Inspectors, Form KBHI 4", April, 2006
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (32 Ky.R. 2405; 33 Ky.R. 781; eff. 10-6-2006.)