

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

1

SENATE BILL 617

Short Title: Home Inspectors.

(Public)

Sponsors: Senators Seymour; Sherron, Hartsell, Daniel, Plexico, Warren, Hoyle, Cochran, Richardson, and Smith.

Referred to: Insurance.

April 20, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE THE PRACTICE OF HOME INSPECTIONS.
3 The General Assembly of North Carolina enacts:

4 Section 1. Chapter 143 of the General Statutes is amended by adding a new
5 Article to read:

6 **"ARTICLE 9F.**

7 **"NORTH CAROLINA HOME INSPECTOR LICENSURE BOARD.**

8 **"§ 143-151.43. Short title.**

9 This Article shall be known as the Home Inspector Licensure Act.

10 **"§ 143-151.44. Purpose.**

11 It is the purpose of this Article to safeguard the public health, safety, and welfare
12 and to protect the public from being harmed by unqualified persons by providing for the
13 licensure and regulation of persons engaged in the practice of home inspections and by
14 the establishment of educational standards for home inspectors.

15 **"§ 143-151.45. Definitions.**

16 As used in this Article, unless the context otherwise requires, the term:

- 17 (1) 'Associate home inspector' means a natural person who is employed by
18 a licensed home inspector to conduct any home inspection of any
19 residential building on behalf of the home inspector.
20 (2) 'Board' means the North Carolina Home Inspector Licensure Board.
21 (3) 'Home inspection' means the rendering of a written or oral report, in
22 exchange for compensation of any sort, regarding the evaluation of one
23 or more of the following components of any residential building:

1 heating system, cooling system, plumbing system, electrical system,
2 structural components, foundation, roof, masonry structure, exterior
3 and interior components, or any other related residential housing
4 component.

5 (4) 'Home inspector' means a natural person who, for compensation of any
6 sort, engages in the business of home inspection.

7 (5) 'Residential building' means any structure intended to be, or which is
8 in fact, utilized as a residence by one or more natural persons.

9 **§ 143-151.46. North Carolina Home Inspector Licensure Board established;**
10 **members; terms; vacancies.**

11 (a) The North Carolina Home Inspector Licensure Board is established in the
12 Department of Insurance. The Board shall be composed of seven members appointed as
13 follows:

14 (1) Four members who shall be home inspectors;

15 (2) One member who shall be a licensed contractor upon the
16 recommendation of the North Carolina Home Builders Association;

17 (3) One member who shall be a licensed real estate broker; and

18 (4) One member who is a citizen of the State and who is not in a
19 professional category set forth in subdivisions (1) through (3) above.

20 The various categories shall be appointed as follows: two members in subdivision

21 (1) and the one member from subdivision (4) by the Governor; one member in
22 subdivision (1) and the one member from subdivision (3) by the General Assembly
23 upon the recommendation of the President Pro Tempore of the Senate in accordance
24 with G.S. 120-121; and one member in subdivision (1) and the one member from
25 subdivision (2) by General Assembly upon the recommendation of the Speaker of the
26 House of Representatives in accordance with G.S. 120-121.

27 (b) The members shall be appointed for staggered terms and the initial
28 appointments shall be made prior to October 1, 1993. The appointees shall hold office
29 until July 1 of the year in which their respective terms expire and until their successors
30 are appointed and qualified. Of the members initially appointed, the professional
31 member from subdivision (1) of subsection (a) of this section appointed by the
32 Governor shall be appointed for a one-year term. The professional member from
33 subdivision (1) of subsection (a) of this section appointed by the Speaker of the House
34 of Representatives and the one member from subdivision (3) of subsection (a) of this
35 section appointed by the President Pro Tempore of the Senate shall be appointed for
36 two-year terms. The professional member from subdivision (1) of subsection (a) of this
37 section appointed by the President Pro Tempore of the Senate and the one member from
38 subdivision (4) of subsection (a) of this section appointed by the Governor shall be
39 appointed for three-year terms. One professional member from subdivision (1) of
40 subsection (a) of this section appointed by the Governor and the one member from
41 subdivision (2) of subsection (a) of this section appointed by the Speaker of the House
42 of Representatives shall be appointed for four-year terms.

43 Thereafter, as the term of each member expires, a successor shall be appointed for a
44 term of four years.

1 (c) Vacancies in the Board occurring for any reason shall be filled for the
2 unexpired term by the appointing official making the original appointment. Vacancies
3 in positions originally appointed by the Governor shall be filled by the Governor and
4 vacancies in positions originally appointed by the General Assembly upon the
5 recommendation of the President Pro-Tempore of the Senate or the Speaker of the
6 House of Representatives shall be filled in accordance with G.S. 120-122.

7 **"§ 143-151.47. Compensation.**

8 Members of the Board shall receive no salary for serving on the Board, but shall be
9 reimbursed for their travel, per diem, and other expenses authorized by G.S. 93B-5.

10 **"§ 143-151.48. Election of officers; meetings of Board.**

11 (a) Within 30 days after making appointments to the Board, the Governor shall
12 call the first meeting of the Board. The Board shall elect a chairman and a vice-
13 chairman who shall hold office according to rules adopted by the Board.

14 (b) The Board shall hold at least two regular meetings each year as provided by
15 rules adopted by the Board. The Board may hold additional meetings upon the call of
16 the chairman or any two Board members. A majority of the Board membership shall
17 constitute a quorum.

18 **"§ 143-151.49. Powers and responsibilities of Board.**

19 The Board shall:

- 20 (1) Determine the qualifications and fitness of applicants for licenses,
21 renewal of licenses, and reciprocal licenses;
- 22 (2) Adopt rules necessary to conduct its business, carry out its duties, and
23 administer this Article;
- 24 (3) Adopt and publish a code of ethics and standard of practice for persons
25 licensed under this Article;
- 26 (4) Examine for, approve, issue, deny, revoke, suspend, and renew the
27 licenses of home inspectors, associate home inspectors applicants, and
28 licensees under this Article and conduct hearings in connection with
29 these actions;
- 30 (5) Conduct investigations, subpoena individuals and records, and do all
31 other things necessary and proper to discipline persons licensed under
32 this Article and to enforce this Article;
- 33 (6) Employ professional, clerical, investigative, or special personnel
34 necessary to carry out the provisions of this Article, and purchase or
35 rent office space, equipment, and supplies;
- 36 (7) Adopt a seal by which it shall authenticate its proceedings, official
37 records, and licenses;
- 38 (8) Conduct administrative hearings in accordance with Article 3 of
39 Chapter 150B of the General Statutes when a 'contested case' as
40 defined in G.S. 150B-2(2) arises under this Article;
- 41 (9) Establish reasonable fees as allowed by this Article for applications for
42 examination; initial, provisional, and renewal licenses; and other
43 services provided by the Board;

- 1 (10) Publish and make available upon request the licensure standards
2 prescribed under this Article and all rules issued by the Board;
3 (11) Request and receive the assistance of State educational institutions or
4 other State agencies;
5 (12) Establish and approve educational curricula, clinical practice, and
6 continuing education requirements for persons seeking licensure under
7 this Article.

8 **"§ 143-151.50. Requirements of license.**

9 (a) No person may engage in the business of providing home inspections, either
10 part-time or full-time, or in any other manner act as a home inspector or associate home
11 inspector unless the person is licensed by the Board.

12 (b) No license shall be issued under the provisions of this Article to a partnership,
13 association, corporation, firm, or group. However, nothing herein shall preclude a
14 State-licensed home inspector from performing home inspections for or on behalf of a
15 partnership, association, corporation, firm, or group, provided that the home inspection
16 is prepared by, or under the immediate supervision, of a State-licensed home inspector.
17 Nothing herein shall preclude a home inspector from conducting its business as a
18 partnership, association, corporation, firm, or group or from entering into contracts or
19 enforcing contracts as a partnership, association, corporation, firm, or group.

20 **"§ 143-151.51. Requirements for Home Inspector License.**

21 (a) License Criteria. – The Board shall establish the criteria for the granting of a
22 license. The applicant for a home inspector's license, shall, as a condition precedent to
23 obtaining a license, take the prequalifying home inspector licensing examination as
24 prescribed by the Board, and score a passing grade. Each applicant for a license as a
25 licensed home inspector shall meet the following requirements:

- 26 (1) Has submitted a completed application as required by the Board; and
27 (2) Has submitted any fees required by the Board; and
28 (3) Either:
29 a. 1. Be a high school graduate or produce proof
30 satisfactory to the Board of an education equivalent
31 thereto; and
32 2. Has been engaged as a licensed associate home inspector
33 for at least one year and has completed 250 fee-paid
34 inspections; or
35 b. Possess educational and experience qualifications which the
36 Board deems to be the equivalent of the qualifications listed in
37 subparagraphs (3)a. 1. and 2. above. An equivalency process
38 shall be established by the Board; or
39 c. Provide evidence of current licensure as a general contractor
40 under Article 1 of Chapter 87 of the General Statutes or as an
41 architect under Chapter 83A, or as a professional engineer
42 under Chapter 89C of the General Statutes.

1 (b) Written Application. – An application for a license as a home inspector shall
2 be made in writing to the Board upon a form provided for the purpose by the Board, and
3 shall contain any information concerning the applicant that the Board requires.

4 (c) Place of Business. – The application shall state the place of business for
5 which the license is desired.

6 **"§ 143-151.52. Requirements for Associate Home Inspector Licenses.**

7 (a) Each applicant shall, as a condition precedent to obtaining a license, take the
8 associate home inspector's license examination and score a passing grade. The
9 applicant shall be a high school graduate or produce proof satisfactory to the Board of
10 an education equivalent thereto.

11 (b) An application for a license as an associate home inspector shall be made in
12 writing to the Board upon a form provided for the purpose by the Board, and shall
13 contain any information concerning the applicant that the Board requires.

14 (c) Before the Board issues a license to an associate home inspector, the
15 applicant shall submit a sworn statement by the home inspector with whom he desires to
16 be affiliated certifying that the home inspector will actively supervise and train the
17 applicant.

18 **"§ 143-151.53. Notification of applicant following evaluation of application.**

19 After evaluation of the application and of any other evidence submitted, the Board
20 shall notify each applicant that the application and evidence submitted are satisfactory
21 and accepted or unsatisfactory and rejected. If rejected, the notice shall state the reasons
22 for the rejection.

23 **"§ 143-151.54. License as constituting property of Board; display requirement;**
24 **renewal; inactive status.**

25 (a) A license issued by the Board is the property of the Board and must be
26 surrendered to the Board on demand.

27 (b) The licensee shall display the license certificate in the manner prescribed by
28 the Board.

29 (c) The licensee shall inform the Board of any change of his address.

30 (d) The license shall be reissued by the Board annually upon payment of a
31 renewal fee if the licensee is not in violation of this Article at the time of application for
32 renewal and if the applicant fulfills current requirements of continuing education as
33 established by the Board.

34 (e) Each person licensed under this Article is responsible for renewing his license
35 before the expiration date. The Board shall notify licensee of pending license expiration
36 at least 30 days in advance thereof.

37 (f) The Board may provide for the late renewal of a license upon the payment of
38 a late fee, but no late fee renewal may be granted more than five years after license
39 expires.

40 (g) Under procedures and conditions established by the Board, a licensee may
41 request that his license be declared inactive. The licensee may apply for active status at
42 any time and, upon meeting the conditions set by the Board, shall be declared in active
43 status.

44 **"§ 143-151.55. Suspension revocation and refusal to renew license.**

1 (a) The Board may deny or refuse to renew a license, may suspend or revoke a
2 license, or may impose probationary conditions on a license if the licensee or applicant
3 for licensure has engaged in any of the following conduct:

- 4 (1) Employment of fraud, deceit, or misrepresentation in obtaining or
5 attempting to obtain a license, or the renewal thereof;
- 6 (2) Committing an act or acts of malpractice, gross negligence, or
7 incompetence in the practice of home inspections;
- 8 (3) Practicing as a licensed home inspector without a current license;
- 9 (4) Engaging in conduct that could result in harm or injury to the public;
- 10 (5) Conviction of or a plea of guilty or **nolo contendere** to any crime
11 involving moral turpitude;
- 12 (6) Adjudication of insanity or incompetency, until proof of recovery from
13 the condition can be established;
- 14 (7) Engaging in any act or practice that violates any of the provisions of
15 this Article or any rule issued by the Board, or aiding, abetting, or
16 assisting any person in a violation.

17 (b) A denial, refusal to renew, suspension, revocation, or imposition of
18 probationary conditions upon a license may be ordered by the Board after a hearing held
19 in accordance with Chapter 150B of the General Statutes and rules adopted by the
20 Board. An application may be made to the Board for reinstatement of a revoked license
21 if the revocation has been in effect for at least one year.

22 **"§ 143-151.56. Fees.**

23 The Board shall adopt and publish, in the manner established by its rules, fees
24 reasonably necessary to cover the cost of services rendered for the following purposes:

- 25 (1) For an initial application, a fee not to exceed fifty dollars (\$50.00);
- 26 (2) For examination or reexamination, a fee not to exceed one hundred
27 fifty dollars (\$150.00);
- 28 (3) For issuance of a license, a fee not to exceed three hundred dollars
29 (\$300.00);
- 30 (4) For the renewal of a license, a fee not to exceed one hundred fifty
31 dollars (\$150.00);
- 32 (5) For the late renewal of a license, an additional late fee not to exceed
33 fifty dollars (\$50.00);
- 34 (6) For copies of Board rules and licensure standards, charges not
35 exceeding the actual cost of printing and mailing.

36 **"§ 143-151.57. Use of title.**

37 After March 1, 1995, it shall be unlawful for any person who is not licensed under
38 this Article to engage in the practice of providing home inspections or use the title
39 'Home Inspector' or use the words 'Home Inspector' or 'Licensed Home Inspector' alone
40 or in combination, or use the letters 'LHI' or 'HI' or any facsimile or combination in any
41 words, letters, abbreviations, or insignia or to indicate or imply orally or in writing or in
42 any way that the person is a Home Inspector.

43 **"§ 143-151.58. Violation of misdemeanor.**

1 Any person who violates any provision of this Article shall be guilty of a
2 misdemeanor and, upon conviction thereof, shall be fined or imprisoned, or both, in the
3 discretion of the court. Each unlawful act of practice shall constitute a distinct and
4 separate offense.

5 **"§ 143-151.59. Injunctions.**

6 The Board may make application to any appropriate court for an order enjoining
7 violations of this Article, and upon a showing by the Board that any person has violated
8 or is about to violate this Article, the court may grant an injunction, restraining order, or
9 take other appropriate action.

10 **"§ 143-151.60. Exemptions from requirements of this Article.**

11 (a) A person who has engaged in the business of home inspections for a
12 minimum of one year prior to the effective date of this act and has conducted at least
13 250 fee-paid inspections, and who passes the written examination to be administered by
14 the Board and is a high school graduate or who produces proof satisfactory to the Board
15 of an education equivalent thereto, shall be granted a home inspector's license.

16 (b) A person eligible for licensing under subsection (a) of this section shall be
17 exempt from the provisions of this act relating to associate home inspectors.

18 (c) This section shall remain in effect until March 1, 1995, after which date it
19 shall expire.

20 **"§ 143-151.61. Persons and practices not affected.**

21 The requirements of this Article shall not apply to:

22 (1) A person employed by the State of North Carolina or any political
23 subdivision thereof as a code enforcement official when acting within
24 the scope of that employment and who is certified pursuant to Article
25 9C of Chapter 143 of the General Statutes;

26 (2) A plumbing or heating contractor who does not hold himself out to be
27 a home inspector and who is licensed under Article 2 of Chapter 87 of
28 the General Statutes, when that person is acting pursuant to that
29 Article; or

30 (3) An electrical contractor who does not hold himself out to be a home
31 inspector and who is licensed under Article 4 of Chapter 87 of the
32 General Statutes, when that person is acting pursuant to that Article.

33 **"§ 143-151.62. Administration.**

34 (a) The Division of Engineering and Building Code in the Department of
35 Insurance shall provide clerical and other staff services required by the Board, and shall
36 administer and enforce all provisions of this Article and all rules promulgated pursuant
37 to this Article, subject to the direction of the Board.

38 (b) Any monies received by the Board pursuant to this Article shall be deposited
39 in the State treasury to the account of the Board and shall be used for the administration
40 and implementation of this Article."

41 Sec. 2. This act is effective upon ratification.