

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10599 SENATE JUDICIARY

# HYDER COMMUNITY ASSOC. INC.

P. O. BOX 149  
HYDER, ALASKA  
99823  
(604) 636-9148  
FAX (604) 636-2714

IN JUNEAU REPLY TO:  
John Pearson  
HCA Economic Development Office  
8216 Cedar Drive  
Juneau, Ak 99801  
Tel: 907-789-1402  
Fax: 907-789-1403

Date: March 22, 2000

To: Members of the Alaska Legislature  
From: Paul Larkin, Administrator, Hyder Community Association  
Ref: HB 255 "Home Rule Community"



Dear Legislative Members:

With great interest and full support, the Hyder Community Association, representing approximately 130 residents of Hyder, Alaska has become very supportive of HB255 addressing a new "Home Rule Community" designation.

We view this legislation as a great opportunity for smaller communities such as ours, to go the extra step in assuming local responsibility and providing added services within the community.

Under HB 255 we would be able to assume any of a wide range of local powers from environmental controls to public works management. This bill would allow us to contract with state and local governments to provide certain services; contract with private organizations for services, apply for and receive federal funds; engage in funding measures such as bonds, establish a legally recognized forum to address local concerns; and have a platform to petition the state and federal government.

Much of our interest in this bill results from our desire to improve life and bring positive economic development to Hyder, while not being strapped with the costly complications found in the Incorporated First Class City designation process.

As an unorganized community, the Hyder Community Association presently provides fire and emergency services, operates a library, plows snow on the side streets, oversees the state harbor, float facility and local roads. In addition we operate a visitor center, museum, and manage various grants.

Today Hyder is in the process of establishing a new job creating economic base. With a historical five or six, year round jobs in the community, we currently have a major Alaska bottled water plant under construction, creating 41 new jobs in Hyder. This remarkable feat, with no assistance from the State of Alaska in our efforts to eliminate all unemployment and welfare in our community, brings the focus this needed legislation into realistic view.

I want to assure you of our full support for HB255 and trust you will recognize the value this bill to our small Alaska communities.

Please feel free to contact John Pearson in Juneau, on 789-1402 if there are any questions or a need for additional support for this important bill.

# SOUTHEAST CONFERENCE

*Working for strong economies, healthy communities, and a quality environment in Southeast Alaska*

March 24, 2000

Representative Fred Dyson  
Alaska State Legislature  
Room 104, Capitol Bldg  
Juneau, AK 99801-1182

Re: Support for HB 255

Dear Representative Dyson:

The Southeast Conference Board of Directors recently met and discussed HB 255 (CRA) "An Act relating to cities incorporated under state law that are home rule communities" and would like to offer their support to this important legislation.

Many of the smaller communities of Southeast Alaska would benefit from the ability to participate and offer services within the capability of their local resources. This has been a missing piece and your bill does an excellent job of filling the gap. HB 255 gives the smaller communities the option to pursue strategies that are meaningful to them and to tailor those services offered to local consensus.

The Southeast Conference appreciates the work you have done on this legislation in the House and supports passage in the Senate. A part of the mission statement of the Southeast Conference is to help develop strong economies and healthy communities. We feel that HB 255 will be a welcome addition to the building tools for our region.

Thank You.

Sincerely,



Frank Homan  
Executive Director

**HB**

**24**

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 24(EDT)  
 (H) Publish Date: 2/12/01

Revision Date/Time (Note if correction): 2/05/2001 4:05p.m. Dept. Affected: DCED  
 Title: BOROUGH REVENUES FOR TOURISM BRU: Comm Asst&Econ.Dev  
MARKETING Component: Community &  
 Sponsor: Representative Whitaker Business Development  
 Requester: House Special Committee EDTT Component Number: 2486

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-------------------------------	------------	------------	------------	------------	------------	------------

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 RSS						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation provides for the expenditure of borough revenues for tourism marketing. This legislation would have no fiscal impact on the department.

Prepared by: Pat Poland Phone 269-4580  
 Division: Community and Business Development Date/Time 2/05/2001 4:05p.m.  
 Approved by: Commissioner Deborah B. Sedwick Date 2/5/2001  
 Agency: Department of Community & Economic Development

For distribution information, call the Governor's Legislative Office

COMMITTEE COPY

# Alaska State Legislature

Representative Jim Whitaker  
House of Representatives  
District 31



**Session**  
Capitol Building, Room 411  
Juneau, Alaska 99801  
Phone: (907) 465-3004  
Fax: (907) 465-2070

**Interim**  
119 N. Cushman St. Suite 213  
Fairbanks, AK 99701  
Phone: (907) 452-1088  
Fax: (907) 452-1146

## SPONSOR STATEMENT

### HB24

### Borough Revenues for Tourism Marketing

Since the 1970's, the visitor industry in communities throughout Alaska has relied on local destination marketing organization to compete in an increasingly competitive worldwide marketplace.

The funding source for these organizations is typically local visitor industry taxes enacted with the intent that the revenues collected, fund the destination marketing efforts of the community in which such taxes are collected.

A provision in the Alaska State Municipal Code, Title 29 creates a situation wherein certain visitor industry tax collections cannot be used to fund local destination marketing efforts. This has the potential to affect eleven of Alaska's organized boroughs, even in those cases where the funding of destination marketing efforts is the express intent for which a visitor industry tax is collected.

HB24 amends Title 29 of Alaska Statutes allowing, at local option, the use of borough revenues for an on-going tourism marketing effort.

# Alaska State Legislature

SENATOR  
GENE THERRIALT

Mailing Address:  
119 N. Cushman, Suite 101  
Fairbanks, Alaska 99701  
(907) 488-0857  
Fax: (907) 488-4271




Senate

While in session  
State Capitol  
Juneau, Alaska  
99801-1182  
(907) 465-4797  
Fax: (907) 465-3884

Senate District Q

## Memorandum

**To:** Senator Taylor, Chairman Senate Judiciary Committee  
**From:** Senator Therriault   
**Date:** March 22, 2001  
**Re:** Committee Scheduling of House Bill 24

---

I would like to express my support for the scheduling of HB 24 by the Senate Judiciary Committee.

Although the current problem in Fairbanks may stem from a particular interpretation of law, I believe it does illustrate a legitimate concern that needs to be clarified in the state statutes.

**HB**

**27**

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 5  
 Bill Version: CSHB 27(FIN)  
 (H) Publish Date: 4/1/02

Revision Date/Time (Note If correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title License Home Inspectors BRU AHFC  
 Component AHFC  
 Sponsor Representative Rokeberg  
 Requester House Finance Committee Component No. 110

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

AS 18.56.300 is amended to establish state-licensed home inspectors for the approval of homes for mortgage purchases by AHFC. The current construction standard is approved by the International Conference of Building Officials (ICBO).

Costs would relate to education regarding the changes to the home inspection process. For example, homebuyers, realtors, homebuilders and mortgage lenders will need to know of the new requirements to ensure minimal disruptions in closing home mortgage transactions. These activities can be adequately covered with annual budget authorizations.

AHFC is given a non-voting, ex-officio board seat until July 1, 2005, and is directed to pay its own expenses for this privilege. Participation was requested by AHFC in order to assist in the transition from ICBO inspections to state-licensed inspections, as well as advocate for the establishment of construction standards consistent with financing and bonding requirements. Assuming there will be less than three meetings per year, AHFC can adequately cover these costs with regular annual budget authorizations.

Prepared by: John Bitney, Legislative Liaison Phone 330-8445  
 Division Alaska Housing Finance Corp. Date/Time 3/26/02 6:31 PM  
 Approved by: Larry Persily, Deputy Commissioner Date 3/26/2002  
 Agency Alaska Department of Revenue

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 6  
 Bill Version: CSHB 27(FIN)  
 (H) Publish Date: 4/1/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title An Act relating to the licensure and BRI: Occupational Licensing (117)  
registration of individuals who perform home inspections Component Occupational Licensing  
 Sponsor Representative Rokeberg  
 Requester House Finance Component No. 2360

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	51.5	51.5	51.5	51.5	51.5	51.5
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	6.0	6.0	6.0	6.0	6.0	6.0
Supplies	1.0	1.0	1.0	1.0	1.0	1.0
Equipment	6.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>64.5</b>	<b>58.5</b>	<b>58.5</b>	<b>58.5</b>	<b>58.5</b>	<b>58.5</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES (1156)</b>	<b>123.0</b>	<b>0.0</b>	<b>117.0</b>	<b>0.0</b>	<b>117.0</b>	<b>0.0</b>
----------------------------------	--------------	------------	--------------	------------	--------------	------------

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other-1156 Receipt Supported Services	64.5	58.5	58.5	58.5	58.5	58.5
<b>TOTAL</b>	<b>64.5</b>	<b>58.5</b>	<b>58.5</b>	<b>58.5</b>	<b>58.5</b>	<b>58.5</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time	2	2	2	2	2	2
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The revenue collection shown every other year is the result of the biennial licensing cycle. An explanation of the costs shown above is on page 2.

Prepared by: Jennifer Strickler, Administrative Manager  
 Division: Occupational Licensing  
 Approved by: Deborah B. Sedwick, Commissioner  
 Agency: Department of Community & Economic Development

Phone (907) 465-2144  
 Date/Time 3/27/02 3:30 PM  
 Date 3/27/2002

FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

BILL NO. CSHB 27(FIN) - FN#6

ANALYSIS CONTINUATION

CSHB 27 (FIN): An Act relating to the licensure and registration of individuals who perform home inspections;....

Page 2 of 2

**Total PERSONAL SERVICES: \$51.5**

- Occupational Licensing Examiner I position, PPT, Range 12, \$20.7
- 1/2 Investigator III position, Range 18A, \$30.8

**Total TRAVEL: \$0.0**

**Total CONTRACTUAL SERVICES: \$6.0**

-30 hours of AG legal time for regulations and license appeals, \$3.0

-Printing, postage, communication, and advertising costs, \$3.0

The contractual services total does not include any expenditures for purchase of a license examination.

This fiscal note assumes applicants will pay the testing service directly for the examination.

**Total SUPPLIES: \$1.0**

To fund daily operating supplies of the program.

**Total EQUIPMENT (one-time costs): \$6.0**

Office equipment and workstation set-up for the support position.

**TOTAL FISCAL NOTE: \$64.5**

REVENUE & FUND SOURCE: Revenue will be generated by specialty contractor licensing fees sufficient to cover direct and indirect program costs.

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS:

JUDICIARY COMMITTEE, CHAIRMAN  
LABOR & COMMERCE COMMITTEE, MEMBER  
LEGISLATIVE COUNCIL, MEMBER  
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &  
TOURISM, MEMBER

website: <http://www.akrepublicans.org/Rokeberg.htm>



INTERIM:  
716 WEST 4TH AVENUE, SUITE 350  
ANCHORAGE, AK 99501  
PHONE: (907) 269-0117  
FAX: (907) 269-0119

SESSION:  
ALASKA STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4908  
FAX: (907) 465-2040

## Representative Norman Rokeberg

e-mail: [Representative\\_Norman\\_Rokeberg@legis.state.ak.us](mailto:Representative_Norman_Rokeberg@legis.state.ak.us)  
**SPONSOR STATEMENT FOR CSHB 27 (FIN)**

**TITLE:** An Act relating to the registration of individuals who perform home inspectors; relating to regulation of contractors; relating to registration fees for specialty contractors, home inspectors, and associate home inspectors; relating to home inspection requirements for residential loans purchased or approved by the Alaska Housing Finance Corporation; relating to civil actions by and against home inspectors and to civil actions arising from residential unit inspections; and providing for an effective date.

**CSHB 27 (FIN)** will protect consumers and the home inspection industry by requiring registration of home inspectors in Alaska.

Currently, anyone can call himself or herself a home inspector and there is no state agency overseeing the industry. Consumers desire assurance that the home inspector they hire is competent, and that they have recourse against inspectors that are not. **CSHB 27 (FIN)** accomplishes this by establishing registration requirements qualifications insurance, and proof of competency via examination and continuing education. Home inspectors will also be required to provide consumers with an inspection report.

A faulty inspection could have serious consequences for consumers, practically when they are buying or selling a home. Common sense dictates that home inspectors must be held accountable for their work. This limits legal actions against a registered home inspector to a written home inspector report that is not more than 180 days old and/or unlawfully disclosed.

For ease of administration and in order to keep costs at a minimum, home inspectors are added to the statutes concerning specialty contractors. Clarifying language is inserted in the statutes as necessary.

I would urge your support for this legislation.

ED4:03/28/02

**Sponsor Statement**

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS:

JUDICIARY COMMITTEE, CHAIRMAN  
LABOR & COMMERCE COMMITTEE, MEMBER  
LEGISLATIVE COUNCIL, MEMBER  
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &  
TOURISM, MEMBER

website: <http://www.akpublicans.org/Rokoborg.htm>



INTERIM:  
718 WEST 4TH AVENUE, SUITE 350  
ANCHORAGE, AK 99501  
PHONE: (907) 280-0117  
FAX: (907) 269-0110

SESSION:  
ALASKA STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4960  
FAX: (907) 465-2040

## Representative Norman Rokeberg

e-mail: [Representative\\_Norman\\_Rokeberg@legis.state.ak.us](mailto:Representative_Norman_Rokeberg@legis.state.ak.us)

### SECTIONAL ANALYSIS

#### CSIIB 27 (FIN),

An Act relating to the registration of individuals who perform home inspections; relating to regulation of contractors; relating to registration fees for specialty contractors, home inspectors, and associate home inspectors; relating to home inspection requirements for residential loans purchased or approved by the Alaska Housing Finance Corporation; relating to civil actions by and against home inspectors and to civil actions arising from residential unit inspections; and providing for an effective date.

Prepared by Representative Norman Rokeberg

- Section 1:** Amends AS 08.01.010 [Centralized Licensing, Applicability of Chapter] to add reference to home inspectors.
- Section 2:** Amends AS 08.01.065(c) [Centralized Licensing, Establishment of Fees] to add reference to new subsection in Section 3.
- Section 3:** Amends 08.01.065 [Centralized Licensing, Establishment of Fees] to require that the fees established for AS 08.18 [Construction Contractors] so that fee levels for specialty contractors, home inspectors, and associate home inspectors shall equal total regulatory costs for these three categories. Fee for home inspector, associate home inspector, and joint license shall be the same.
- Section 4:** Amends 08.18.011 [Construction Contractors, Registration required] to make clarifying amendments concerning contractor registration.
- Section 5:** Amends 08.18.011 [Construction Contractors, Registration required] to require registration for home inspectors and associate home inspectors. Associate home inspector is to be employed by a registered home inspector who will be liable for the associate's work. Clarifies that an individual holding a joint registration for home inspection is considered to be registered as both a home inspector for new homes and existing homes.
- Section 6:** Amends AS 08.18.021(a) [Construction Contractors, Application for registration] to insert language concerning home inspector registration and to clarify requirements for home inspectors and contractors. Correction reference to "employer" social security number in the current statute to the "applicant's" social security number.
- Section 7:** Adds new sections to AS 08.18 [Construction Contractors] as follows:
- Section 08.18.022.** Home inspectors; associate home inspectors. Sets forth examination requirements, education and experience requirements, and application requirements for registration as a home inspector or associate home inspector.

### Sectional Analysis

**Section 08.18.023. Pre-inspection documents and inspection reports.** Establishes the procedure for pre-inspection documents and inspection reports. Sets forth the items to be included in the report and requires a written report. Indicates that an oral inspection report may be given by a home inspector during or after the inspection. Sets the validity period of the inspection report as six months.

- Section 8:** Amends AS 08.18.031(a) [Construction Contractors, Certificate of Registration] to clarify the renewal of home inspector registrations.
- Section 9:** Adds new section to 08.18.031 [Construction Contractors, Certificate of Registration]. Sets forth the renewal procedure for a home inspector registration. Permits the Department to adopt regulations concerning continuing competency requirements. Indicates that regulations must provide that a continuing competency activity approved by one of the following entities satisfies the continuing competency requirements if the activity meets the Department's requirements: Alaska Housing Finance Corporation, University of Alaska, American Society of Home Inspectors Alaska Chapter, a chapter of the International Conference of Building Officials Alaska, Alaska State Homebuilders Association, or a state agency whose activity meets the Department requirements.
- Section 10:** Amends 08.18.041 [Construction Contractors, Fees] to permit the Department to establish fees for registration of home inspectors, associate home inspectors, renewal of registration, and examinations.
- Section 11:** Amends 08.18.051(a) [Construction Contractors, Identification requirements] to clarify that this subsection applies to contractors.
- Section 12:** Adds new section to AS 08.18 [Construction Contractors] to provide identification requirements for home inspectors. Includes that a home inspector or associate home inspector registered under one name may not act under another name; sets forth advertising requirements; establishes that "registered home inspector" may only be used by individuals registered with the Department as a home inspector.
- Section 13:** Amends AS 08.18.061 [Construction Contractors, Requirements of political subdivision] to add reference to home inspectors.
- Section 14:** Amends AS 08.18.071 [Construction Contractors, Bond required]. Adds home inspection activity to this section.
- Section 15:** Amends AS 08.18.071(b) [Construction Contractors, Bond required]. Adds home inspectors to the \$5,000 bond requirement. Cash deposit or other negotiable security acceptable to the commissioner may be used in lieu of bond.
- Section 16:** Amends AS 08.18.081(a) [Construction Contractors, Claims against contractor]. Adds qualifying language referring to Section 17. Adds home inspector to this section.
- Section 17:** Adds new section to AS 08.18 [Construction Contractors]. Legal actions against home inspector. Sets out provisions concerning legal actions against a home inspector. Actions must be commenced within two years from the date of the inspection report on new homes and one year on existing homes. Limitations of this section may not be waived by contract. Home inspector or associate home inspector not liable to person if person is not a party to the transaction or is unlawfully in receipt of home inspection report. Contractual provisions that purport to limit liability of home inspector to cost of home inspection report are contrary to public policy and void.

- Section 18:** Amends AS 08.18.111 [Construction Contractors, Advertising bond and insurance]. Adds home inspectors to this section.
- Section 19:** Amends AS 08.18.115 [Construction Contractors, Return of cash deposit]. Adds provisions for home inspector who ceases doing business to have any cash deposit in lieu of bond returned.
- Section 20:** Amends AS 08.18.116 [Construction Contractors, Investigations] to provide that the Department of Community and Economic Development is the agency to investigate alleged or apparent violations against home inspectors.
- Section 21:** Amends AS 08.18.117 [Construction Contractors, Issuance of citations] to provide that the Department of Community and Economic Development may issue citations for violations with regard to home inspectors.
- Section 22:** Amends AS 08.18.121(a) [Construction Contractors, Suspension and revocation of registration] to add home inspector to provisions indicating that if insurance under AS 08.18.101 (worker's compensation, property and liability) is not in effect, the registration is suspended until such time the insurance is reinstated.
- Section 23:** Amends AS 08.18.121(b) [Construction Contractors, Suspension and revocation of registration] to add home inspector to provisions indicating that if any final judgment impairs the liability of the surety bond or depletes any cash deposit that registration is suspended until bond liability in required amount, unimpaired by unsatisfied judgment claims, has been furnished.
- Section 24:** Amends AS 08.18.121 (c) [Construction Contractors, Suspension and revocation of registration] to add home inspector to provisions indicated that if a bonding company cancels the bond, the registration shall be revoked. Registration may be regained by again complying with bonding requirements.
- Section 25:** Amends AS 08.18.121(d) [Construction Contractors, Suspension and revocation of registration] to add home inspectors to the provisions concerning suspension for failure to follow 08.18.071. Further provides that if a bond is suspended three times, the commissioner may permanent revoke registration.
- Section 26:** Amends AS 08.18.121(f) [Construction Contractors, Suspension and revocation of registration] to provisions concerning violations and the authority of the Department of Commerce and Economic Development with regard to home inspectors.
- Section 27:** Amends AS 08.18.131 [Construction Contractors, Injunction] to add reference to civil penalty. Further adds reference to ability of Department to enjoin person who is violating home inspectors statutes from acting in that capacity.
- Section 28:** Amends AS 08.18.141(a) [Violations] to include home inspector. Those violating 08.18.011 [Registration required] or 08.18.025 [Residential contractors] may be guilty of class B misdemeanor; other violations of this chapter are punishable under AS 12.
- Section 29:** Amends AS 08.18.151 [Construction Contractors, Legal actions by contractor] to add reference to home inspectors.
- Section 30:** Amends AS 08.18 [Construction Contractors] to add new sections as follows:

- a. **08.18.152 Prohibited acts for home inspectors.** Sets out the acts which home inspectors may not do, such as: repairs to subject property for additional fees; inspect property for a fee in which home inspector has a financial interest; offer rewards or compensation for business referrals; without written consent of client, disclose information from a home inspection report unless to a subsequent client who requests an inspection on the same premises or in a judicial action; accept compensation from more than one party for the same home inspection; accept commission; accept engagement for home inspection based on outcome of inspection report.
- b. **08.18.154 Limitation on home inspector's activities.** Sets for limitation on activities.
- c. **08.18.156. Exemptions related to home inspectors:** Exempts following from registering as a home inspector or association home inspector in order to inspect a home: federal, state or local government employee performing duties within scope of office; inspecting own home or one in which person has a financial interest; registered engineer or architect who affixes seal or signs reports and puts registration number on report; engineer or architect in training supervised by registered engineer or architect; pesticide applicator performing duties in scope of license issued by Department of Environmental Conservation; general contractor with residential contractor endorsement performing activities within scope of that registered; real estate appraiser performing those duties; determining if thermal and lighting energy standards are being met. Established that the definition of "home inspection" does not include repairing, maintaining, or installing systems or components listed in new 08.18.171(12) and inspects those systems or components in order to perform or offer repair, maintenance or installation work on those items.

- Section 31:** Amends 08.18.161 [Construction Contractors, Exemptions] to add qualifying reference to contractors.
- Section 32:** Amends AS 08.18.171 [Construction Contractors, Definitions] to add definitions for: existing home, home inspection, home inspector, joint registration, knowingly, new home, residence, and visual examination.
- Section 33:** Amends AS 18.56.300(b) [Alaska Housing Finance Corporation, Construction standards for housing eligible for purchase of loans] current AHFC statute requiring a home inspection before certain loan commitments are made by AHFC. Adds registered home inspectors to list of people qualified to accomplish an inspection and eliminates the distinction in current law for rural areas, thus allowing an architect, engineer, or other person approved by AHFC to qualify as a home inspector under the AHFC statute for all homes, not just those in rural areas.
- Section 34:** Amends same AHFC statute described in Section 33 [Alaska Housing Finance Corporation, Construction standards for housing eligible for purchase of loans], but amendment does not take effect until January 1, 2005, so is set out separately. Would eliminate persons certified by the ICBO and IAEA from being qualified to do the AHFC inspections referred to in AS 18.56.300(b) as these individuals would now be under the home inspector license requirements.
- Section 35:** Amends AS 36.30.050(b) [State procurement code, Lists of contractors] to add qualifying language concerning contractors.
- Section 36:** Amends 36.30.115(a) [State procurement code, subcontractors for construction contracts] to add clarifying references to contractors.

- Section 37:** Amends 36.30.210 [State procurement code, Request for proposals] to add clarifying reference to contractors.
- Section 38:** Amends AS 36.90.290(1) [State procurement code, definition] adds qualifying language to definition of "prime contractor".
- Section 39:** Amends AS 45.50.471(b) [Competitive Practices and Regulations of Competition, unlawful acts and practices] to bring violations of 08.18.023(b) [inspection reports] and 08.18.152 [prohibited acts for home inspectors] under unfair trade practice statutes.
- Section 40:** Repeals AS 18.56.300(c) [Alaska Housing Finance Corporation, construction standards for housing eligible for purchase of loans] effective July 1, 2004 (see Section 46).
- Section 41:** Applicability: Change made in Section 40 applies to causes of action that accrue on or after July 1, 2004.
- Section 42:** Regulations: Permits Department to proceed to adopt regulations regarding home inspectors.
- Section 43:** Provides for transitional licensing.
- Section 44:** Effective date for certain provisions of the legislation.
- Section 45:** Section 34 effective date is January 1, 2005.
- Section 46:** Sections 40 and 41 take effect July 1, 2004.
- Section 47:** Immediate effective date for remainder of legislation except as provided for in sections 44-46.

**CERTIFIED HOME INSPECTION SERVICES**

P.O. Box 874124, Wasilla, Alaska, 99687

Phone 373-3594—FAX 373-3592

Senator Robin Taylor  
FAX 907-465-3922

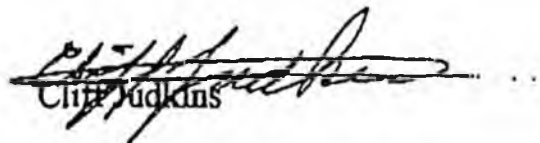
Subject HB 27

Senator Taylor

Per my conversation with your staff, here is literature on three organizations that certify Qualified Home Inspectors. You can find them all on the net. There are inspectors practicing in Alaska with training and testing by each of these organizations. The ones that are not ASHI certified should not be outlawed. Their qualifications are just as valid.

At the very least, please grandfather in existing practicing home inspectors, there are probably more than 10 of them.

Thank you for your time. Cliff and Joann Judkins (American Home Inspector Training Institute Certified Home Inspectors)

  
Cliff Judkins

**INFORMATION  
STATEMENT**



- Join ASHI
- State Regulations
- Products / Services
- The ASHI Reporter
- Information Pages
- ASHI Chapters
- Reson-Damaged
- Other Resources
- CPSC Recalls and Notices
- Online Documents
- Technical Information
- ASHI Home
- Building Systems



## ASHI Standards and Ethics Examination Handbook

### Score reporting

Upon completion, the test center manager will immediately score the examine words "PASS" or "FAIL" and a numeric score appear on the score sheet. Indiv who fall must wait 30 days before being eligible to retake the examination. All taking a re-examination must pay the original examination fee for each test. T no limits to the number of times an individual may test.

### Applying your score to achieve ASHI Member status

To insure that your score is applied to your ASHI membership requirements, r your passing score report to

American Society of Home Inspectors  
 932 Lee Street, #101  
 Des Plaines IL 60018  
 Fax 847-759-1620 Membership phone: 847-759-2820

Both experienced and novice home inspectors enter ASHI as Candidates. To full Member, the Candidate must:

- o Pass the National Home Inspector Examination and ASHI's Standards Ethics Examination.
- o Have inspection reports successfully verified for compliance with ASHI Standards of Practice.
- o Submit valid proof of performance of at least 250 fee-paid home Inspe meet or exceed the ASHI Standards of Practice.

*250  
 inspections to be  
 full member*

If passage of the ASHI Standards and Ethics Examination completes your Ca requirements, you will be notified by ASHI Headquarters. Upon notification by your Member status, you may begin to use the ASHI Member logo In your ma materials.

Candidates who have passed both the National Home Inspector Examination ASHI Standards and Ethics Examination, but who have completed only 50 no inspections, may have the inspections verified by ASHI. If accepted, the Canc may apply for use of the distinct "ASHI Candidate" logo in their marketing ma Candidates may not use the official "ASHI Member" logo under any circumsta



## CERTIFICATION SUMMARY

The American Home Inspectors Training Institute (AHIT) Certified Member logo is the only logo in the industry that represents a fully trained and insured home inspector.

The following are the requirements to become a certified member of AHIT:

1. Have taken an approved training program.
2. Pass an approved exam (or 8-day exam is accepted)
3. Show proof of Errors & Omissions Insurance — *MINIMUM COST WITH 24 HR EXR 13 2,100.00/YL*
4. Use the AHIT Inspection Report/Software
5. Maintain 40 hours of continuing education every 2 years (see below #8)
6. Have your inspection reports reviewed (see below #4).
7. Pay your annual dues.

The following are the benefits of becoming a certified member of AHIT:

1. AHIT Logo use — All members in good standing will have access to use our new certified logo in their marketing materials. The logos can be downloaded at <http://www.ahit.com/logos>
2. Free Webpage — All members will receive a free webpage hosted on the AHIT website. (Upgrades for a custom website and e-mail are available.)
3. Free Website Listing — All members will be listed on our Find An Inspector site with their certification logo. Certified members will be listed at the top of each state (alphabetically by last name).
4. Report Review — We will review your first three (3) inspection reports and then two (2) inspection reports at the beginning of your second year. Send a copy of your reports (ODD PAGES ONLY) to AHIT, 7734 Prairie Road, Eagle River, WI 54521.
5. Newsletters — All members will receive periodic newsletters via e-mail or mail to keep you up-to-date with the industry.
6. Interactive Bulletin Board — All members will receive access to our interactive bulletin board on the website. You can ask questions anytime of our instructors or other members online. It also serves as an online library for you, as it contains technical, business and marketing information.
7. Free Technical, Marketing, Business and Claims Support - You receive access to our toll-free support phone lines. We are here to answer any of your questions. See the attached list for the appropriate contact information.
8. Continuing Education — You are required to obtain 40 hours of continuing education every 2 years. Our 6-day, 8-day and 11-day course counts for 54 hours, 70 hours and 90 hours, respectively. The 7 inspector guides can be filled out for an additional 41 hours (no charge for students). We will also accept any hours accepted by ASHI, NAHI, CREIA or your State. We will also provide discounts to all of our members on continuing education courses.
9. 4-Color Marketing Brochures — All members receive discounted rates on 4-color customizable marketing brochures. These brochures are only available to certified members. I have enclosed a customization form and order form for these brochures. You can see a sample of the brochure on the internet. The website is <http://www.ahit.com/brochure.htm>
10. Group Insurance Rates — You are eligible for our group insurance plan through CalSurance. Call Sheri Pontolillo or Kathy Phipps at 1-800-223-8131 for an application.
11. Inspections — Members will be eligible for inspections provided by Find An Inspector, Inc. (i.e. insurance, relocation, residential, commercial and new construction inspections.)
12. Warranty Program — Members will be eligible to offer and/or sell warranties through AHIT Warranty Program.



MEMBERSHIP INFO

# Membersh

MEMBERSHIP INFO

BECOMING A MEMBER | UPCCO

## Benefits of Membership

In this day and age, everyone wants to see your credentials. Many inspectors, for this reason, seek NAHI membership.

### NAHI Membership Levels:

NAHI offers multiple membership levels to meet the needs of all home inspectors. NAHI has three levels of membership:

**Associate** – Associate Membership is offered to individuals new to the home inspection industry. Individuals can remain an Associate Member for up to two (2) years. All Associate Members must complete eight (8) Continuing Education Units (CEUs) per year. Eight CEUs are equal to 8 hours of classroom study.

**Regular** – Regular Membership is for the seasoned home inspector. Regular members have met NAHI's comprehensive requirements of training, experience, and testing. All Regular Members must complete eight (8) Continuing Education Units (CEUs) per year. Eight CEUs is equal to 8 hours of classroom study.

**NAHI Certified Real Estate Inspector (NAHI CRI)** – NAHI CRI membership is bestowed upon home inspectors who demonstrate their knowledge of, and proficiency at, all aspects of home inspection. The NAHI CRI is received only after an individual has conducted 250 Inspections, passed the required examination, and met all requirements set forth by the Board of Directors. The NAHI CRI membership level requires recertification on an annual basis. All NAHI CRI Members must complete sixteen (16) Continuing Education Units (CEUs) per year. Sixteen CEUs is equal to 16 hours of classroom study.

### NAHI Benefits of Membership:

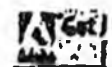
- **National Referral Service** – NAHI provides a National Referral Service to connect consumers with NAHI Inspectors in their area and to help consumers find out important information about the home inspection industry. (Please note: Only Regular Members

Apply!  
NAHI men  
is EA



OVERLOAD

Note: You  
Adobe Acrot  
to open this  
don't have A  
can get it by  
the link I



*Senator Taylor*

# ALASKA STATE LEGISLATURE

## House of Representatives

COMMITTEE ASSIGNMENTS:

JUDICIARY COMMITTEE, CHAIRMAN  
LABOR & COMMERCE COMMITTEE, MEMBER  
LEGISLATIVE COUNCIL, MEMBER  
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &  
TOURISM, MEMBER

website: <http://www.akrepublicans.org/Rokeberg.htm>



INTERIM:  
716 WEST 4TH AVENUE, SUITE 350  
ANCHORAGE, AK 99501  
PHONE: (907) 269-0117  
FAX: (907) 269-0119

SESSION:  
ALASKA STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4068  
FAX: (907) 465-2040

### Representative Norman Rokeberg

e-mail: [Representative\\_Norman\\_Rokeberg@legis.state.ak.us](mailto:Representative_Norman_Rokeberg@legis.state.ak.us)

#### MEMORANDUM

TO: The Honorable Ben Stevens, Chairman  
Senate Labor & Commerce Committee

FROM: Representative Norman Rokeberg

DATE: May 3, 2002

RE: House Bill 27 (home inspectors)

A handwritten signature in black ink, appearing to read "Norman Rokeberg", written over the "FROM:" line of the memorandum.

Thank you for hearing and moving out HB 27. Additionally, thank you for providing me with a copy of your memorandum to Senator Taylor. Answers to the concerns raised in the various attachments to your memorandum are below.

**EXAMINATIONS:** One of the questions, posed by Mr. F. Venuti, concerned the transitional licensing and the examinations.

Page 22, Section 43, of CSHB 27 (FIN) contains the transitional licensing provisions. It states that in order to obtain a joint registration, permitting the person to accomplish inspections on new and existing homes, a person must: (1) have been in the business of home inspection on October 1, 2001; and (2) "passed the building inspector examination or property maintenance and housing inspectors examination given by the International Code of Building Officials." (ICBO) Please note that the reference to the exact exams is not capitalized and thus refers generically to the building inspector or property maintenance or housing inspector examinations given by ICBO.

Page 4, lines 25-27, of CSHB 27 (FIN) contains language on examinations and references for "new homes or for a joint registration is the examination or set of applicable courses offered by the International Conference of Building Officials;". Again, the language is generic.

The language in this bill is generic for a specific purpose and was done intentionally. For example, ICBO offers approximately 30 different examinations. Just from looking at their titles, there are at least five examinations (Building Inspector, Combination

**INFORMATION  
STATEMENT**

Inspector, Combination Dwelling Inspector, Property Maintenance and Housing Inspector, Residential Building Inspector) that might fit the purpose of the language in HB 27. Rather than list all of these and miss one or two examinations that might be appropriate, I decided to use plain language.

I wanted to let the Department review and decide which ICBO exams meet the intent of this legislation. In checking out ICBO's web site, there are over 65 pages of information on the ICBO Code Enforcement Category examinations, ICBO Special Inspector Categories, and ICBO-Sponsored Certification Categories. Rather than go through the list in statute, I prefer to use the generic terms and leave the decision to the Department.

I hope this adequately explains my intent in not referring to the specific ICBO exams in the bill; the language could have been more artfully drafted but I think my intent is clear.

**INSPECTIONS:** It was stated by Mr. Bruu that I do not understand that there are two types of examinations, new and existing. Let me be clear: *I fully understand this*. What Mr. Bruu and others fail to realize is that I want to standardize the process so that the home inspector, the consumer, the banker, the real estate professional, the developer, the builder, and others involved in the process will know what to expect. Mr. Venuti states that in new homes he sometimes never writes a report. I believe this is a dangerous practice. I want to create a paper trail for the protection of the consumer and the protection of the home inspector.

**REPEAL OF AS 18.56.300(c):** Mr. David Owens and Mr. Venuti expressed concern about the repeal of this language, which states:

- (c) A person may not bring an action for damages based on a duty imposed by (b) of this section to inspect a residential unit unless the action is for damages caused by gross negligence or intentional misconduct.

AS 18.56.300(b) establishes that AHFC will require an inspection, describes who will accomplish the inspection, and sets forth the inspection criteria.

The statute that HB 27 repeals basically grants immunity to the inspector from lawsuits and basically is an indemnity clause (the state will protect you, Mr. Or Ms. Home Inspector). There is no other occupation in the state that the state does this for and I do not think we should do it for the home inspection industry. The home inspector should stand proudly behind his or her report. Repeal of this subsection will accomplish this goal.

**EXEMPTIONS:** Mr. Venuti again expressed concern about the exemptions of architects, engineers, and energy raters from the registration requirements contained in

HB 27. First, architects and engineers are already licensed occupations and have their own board (Board of Registration for Architects, Engineers, and Land Surveyors). These professionals must meet certain educational requirements, insurance requirements, disciplinary requirements, etc. Therefore, they are already overseen by a state licensing board and are subject to that board. Consumer protection is afforded by that Board; therefore, they are exempt under HB 27 from registration as a home inspector **unless they want to call themselves a "home inspector"**. If they want to hold themselves out as home inspector, they must then follow the procedure and requirements set forth in HB 27.

Energy raters, referred to by Mr. Venuti, are exempt as long as they are "determining whether a building complies with the thermal and lighting energy standards required by AS 46.100.040." If they step outside that box, then they, too, must be registered.

What many who complain about this exemption fail to realize is that if they suspect an energy rater or any one else is actually accomplishing "home inspections", HB 27 gives the Department some teeth to go after those individuals and force them to comply with the law regarding home inspectors. (See page 3, lines 1-30; Page 11, line through Page 12, line 7).

**INSURANCE REQUIREMENTS:** Under HB 27 there are minimal insurance requirements established for home inspectors just as there are for contractors and other professions in the state. Frankly, as I have stated many times, individuals in any business who do not have insurance coverage are not following good business practices. The minimal requirements mentioned in AS 08.18.101 are: (1) maintenance of worker's compensation insurance if such is required under state law (mentioned in Mr. Bruu's letter). If you are an employer, state law requires you to carry worker's compensation insurance. Sole proprietors who have no employees do not have to carry such insurance under state law. This is no different than what is required for any other entity with employees doing business in the state. (2) maintenance of public liability and property damage insurance in the amounts of not less than \$20,000 for damage to property, \$50,000 for injury, including, death to any one person, and \$100,000 for injury, including death, to more than one person. Again, I feel that maintenance of such insurance is in the interests of the business as well as the consumer. A home inspector could, for example, damage something during an inspection and would thus be covered under the insurance established by this legislation.

Mr. Venuti states that the amount of insurance should be clearly spelled out in the bill. It is by reference to the appropriate Alaska Statute.

Under HB 27 there is also a \$5,000 bond or cash deposit or other negotiable security accepted to the commissioner required – just as there is with many other occupations in

the state. Again, this is a consumer protection clause and also, frankly, protects the home inspector.

**LIABILITY LIMITATIONS:** Mr. Conn is concerned about the limits on liability and the six month's shelf life for an inspection report. HB 27 provides that legal actions against a home inspector must be commenced within two years after date of the inspection report if it relates to a new home and one year if it relates to an existing home. In effect, this provides the consumer with a length of time to be in the home and discover any problems. It also gives the home inspector some protection, as the limits expressed in HB 27 are shorter than our general statute of limitations and statute of repose. Again, I did this intentionally to benefit both the consumer and the home inspector. I think the time lines are reasonable.

Additionally, the six-month's limitation on the life of the inspection report was also discussed considerably during work on this legislation. It is shorter than the 12 months I have found provided for in other state's laws because I feel that our northern climate is not conducive to such a long period of time. It also provides the consumer some protection because there is a stated length of life of the report. It provides the home inspector protection because of the stated length of life of the report.

**FISCAL NOTE:** Mr. Bruu's assertion is incorrect. If I had left the home inspectors as a single entity with a board of their own, the biennial fee would be around \$1500. By combining them with the approximately 2000 specialty contractors, their fee will be about \$250.

**CONCLUSION:** I believe this covers many, if not all, of the questions asked by the public during the hearing before your committee. I appreciate your consideration of this legislation and I hope that this answers any questions that you or your committee members might have had that arose out of comments from some of those testifying at the hearing. As I stated at the hearing, none of these concerns are new to me and the same individuals have raised the same concerns throughout the whole process and I have answered these questions many time before.

HB 27 represents, as Ms. Ward of the Alaska Homebuilders Association indicated, a compromise. It permits one of the few unlicensed parts of a residential real estate transaction (the bill applies only to home inspections of residential property, four-plexes or less) to become registered with the state. Many other individuals involved in a real estate transactions are already subject to licensing and overview by various state agencies (for example: a real estate agent is covered by the Real Estate Commission; a real estate appraiser is covered by the Board of Real Estate Appraisers; bankers are covered under state or federal banking and/or mortgage laws; land surveyors, architects, and engineers are covered by the AELS board mentioned above, etc.).

Page 5

If you have any further questions, please do not hesitate to contact me. You may, if you wish, distribute this memorandum to those who asked the questions at your committee's hearing. I would appreciate your support of this important legislation.

cc: Members of the Senate Labor & Commerce Committee  
Senator Robin Taylor, Chairman, Senate Judiciary Committee  
Members of the Senate Judiciary Committee  
Steve Conn, Fax: 907-279-9300  
Bill Bruu, Ti-Le-An Management, Fax: 907-376-0879  
F. Venuti, Fax: 907-235-7480

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS:

JUDICIARY COMMITTEE, CHAIRMAN  
LABOR & COMMERCE COMMITTEE, MEMBER  
LEGISLATIVE COUNCIL, MEMBER  
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &  
TOURISM, MEMBER

website: <http://www.akrepublicans.org/Rokeberg.htm>



INTERIM:  
716 WEST 4TH AVENUE, SUITE 350  
ANCHORAGE, AK 99501  
PHONE: (907) 269-0117  
FAX: (907) 269-0119

SESSION:  
ALASKA STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4968  
FAX: (907) 465-2040

## Representative Norman Rokeberg

e-mail: [Representative\\_Norman\\_Rokeberg@legis.state.ak.us](mailto:Representative_Norman_Rokeberg@legis.state.ak.us)

### MEMORANDUM

**TO:** Senator Robin Taylor, Chairman  
Senate Judiciary Committee

**FROM:** Rep. Norman Rokeberg

**DATE:** May 1, 2002

**RE:** HB 27 (registration of home inspectors)

A handwritten signature in black ink that reads "Norman Rokeberg".

### Attached are:

1. CSHB 27 (FIN)
2. Sponsor Statement
3. Sectional Analysis
4. Fiscal Notes
5. AS 18.56.300
6. "Existing State Home Inspection Regulatory Legislation," obtained from the American Society of Home Inspectors web site, <http://www.ashi.com>, April 12, 2002
7. "Should We Care Who the Buyer Chooses to Do a Home Inspection" by Rick Jarvis, from Realtor® News, September 1998.
8. "Home-inspection bill would help buyers" by Clair Ramsey, from the Anchorage Daily News, June 27, 1999
9. "Expert home inspections useful for buyer and seller" by Clair Ramsey, from the Anchorage Daily News, July 25, 1999
10. "Inspect the Inspector: Choosing the Right One Can Help Avoid Costly Mistakes" by Karen Crawford of HouseMaster, from Realtor® News, November 1999
11. Letters of Support
  - a. Alaska Association of REALTORS®, INC.
  - b. Anchorage Board of REALTORS®, Inc.
  - c. Lessmeir & Winters
  - d. Ward Development & Construction Management Incorporated

INFORMATION  
STATEMENT

**Sec. 18.56.300. Construction standards for housing eligible for purchase of loans.**

(a) The corporation may not make or purchase a housing loan for residential housing the construction of which begins after June 30, 1992, unless the seller of the mortgage loan complies with the provisions of this section and unless

(1) the unit is in compliance with the construction codes of the municipality, if the unit is located within a municipality that has adopted and enforces construction codes and each of those codes meets or exceeds the comparable standards for similar housing established by the state building code; or

(2) the unit is in compliance with the comparable standards for similar housing established by the state building code

(A) if the unit is located

(i) within a municipality whose construction codes do not meet the standards for similar housing established by the state building code;

(ii) within a municipality that does not enforce construction codes; or

(iii) outside a municipality; or

(B) as to each specific code within the construction codes of the municipality that has adopted and enforces construction codes if the specific code does not meet or exceed the comparable standard for similar housing established by the state building code.

(b) As a condition of a commitment to purchase or approve a loan under this section for residential housing the construction of which begins after June 30, 1992, the corporation shall require inspection of the unit of residential housing that is the subject of the loan. The inspection must be performed by a municipal building inspector, by a person who is approved or certified to perform residential inspections by the International Conference of Building Officials or the International Association of Electrical Inspectors, or, when the unit of residential housing is located in a rural area, by an architect licensed under AS 08.48, by an engineer licensed under AS 08.48, or by another person approved by the corporation. When the unit of residential housing is located in a rural area, the person who makes the inspection may use methods other than a personal physical inspection to make the inspection if the method is approved by the corporation, and variations from the applicable code may be accepted at the corporation's discretion, if the person authorized to inspect the unit under this subsection satisfies the corporation that the variation does not adversely affect the structural integrity of the unit or the health and safety of the residents. The person who makes the inspection shall determine whether the construction conforms to relevant provisions of the construction codes of the municipality or of the state building code, as applicable, at each of the following stages of construction:

- (1) plan approval;
- (2) completion of footings and foundations;
- (3) completion of electrical installation, plumbing, and framing;
- (4) completion of installation of insulation;
- (5) final approval.

(c) A person may not bring an action for damages based on a duty imposed by (b) of this section to inspect a residential unit unless the action is for damages caused by gross negligence or intentional misconduct.

(d) This section does not apply to a nonconforming housing loan made or purchased by the corporation.

(e) In this section,

(1) "construction codes" means, with reference to a municipality, the building, mechanical, plumbing, and electrical codes, or any of them that have been adopted and are enforced by the municipality;

(2) "rural area" means a community with a population of 5,500 or less that is not connected by road or rail to Anchorage or Fairbanks;

(3) "state building code" means

(A) for building standards, the standards set out in the version of the Uniform Building Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(B) for mechanical standards, the standards set out in the version of the Uniform Mechanical Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(C) for plumbing standards, the minimum plumbing code adopted for the state under AS 18.60.705; and

(D) for electrical standards, the minimum electrical standards prescribed by AS 18.60.580. (§ 2 ch 85 SLA 1990; am § 1 ch 29 SLA 1991; am §§ 1, 2 ch 52 SLA 1991; am § 99 ch 4 FSSLA 1992; am §§ 1, 2 ch 81 SLA 1994; am § 1 ch 2 SLA 1996)

Revisor's notes. Paragraph (e)(2) was enacted as (e)(3). Renumbered in 1994, at which time former (e)(2) was renumbered as (e)(3).



American Society of Home Inspectors	
Homebuyers / Sellers	Home Inspectors
Home Inspectors	Find an Inspector
Members Only	InspectionWorld
Online Store	Media & Publicity
About Us	Contact Us
Site map/Search	

**HOME INSPECTORS**

JOIN ASHI

- Join ASHI
- State Regulations
- Products / Services
- The ASHI Reporter
- Information Pages
- ASHI Chapters
- Fax-on-Demand
- Other Resources
- CPSC Recalls and Notices
- Online Documents
- Technical Information
- ASHI@Home Training System



## Existing State Home Inspector Regulatory Legislation

**Alabama Registration (Act 96-574) enacted in 1996.** Under the "Alabama Home Inspectors Registration Act," home inspectors must show proof of liability insurance and show evidence of one of the following: 1) membership in and adherence to the ethical standards of ASHI or an equivalent professional body; 2) current approval or certification from the United States Veterans Administration, the United States Department of Housing and Urban Development, the Southern Building Code Congress International, or the Council of American Building Officials; 3) a high school diploma or its equivalent, work experience at least one year as a home inspector, and completion of at least 100 home inspections for compensation; or 4) current licensure in Alabama as a general contractor, architect, structural engineer, or residential home builder. Under the law, home inspectors are also required to carry liability insurance.

For more information, contact the Secretary of State, Home Inspectors, at (334) 242-7211.

To download the law go to: <http://www.legislature.state.al.us/CodeofAlabama/1975/coatoc.htm>, click on Title 34, the Chapter 14B.

**Arizona Registration (Chapter 1, Sec. 5, Title 32) enacted in 2000.** Under the Arizona Home Inspector Registration Act, registration requirements for home inspectors are administered by the State Board of Technical Registration (SBTR). The law establishes the process and requirements for registration and registration renewal as a home inspector. In addition, the law requires that registered home inspectors have one of the following financial assurances: a. Errors and Omissions in the amount of \$200,000 in the aggregate and \$100,000 per occurrence; b. \$25,000 bond; or c. Financial assurance mechanism with a value of at least \$25,000. The law states that a failure to obtain, or loss of, financial assurance is grounds for revocation of registration. The law allows a practicing home inspector to present evidence of sufficient experience to not have to obtain training or pass an exam through December 31, 2002. Exempts individuals from course study requirements for registration who can provide evidence to the SBTR that they have performed 250 or more home inspections for compensation.

For more information, contact State Board of Technical Registration, (602) 255-4053, (602) 255-4051 fax.

To download the law go to: <http://www.btr.state.az.us/> and click "Legislative Updates," click "Senate Bill 1132." To download the Rules, click "Applicable Statutes" and then "Statute Governing the AZ BTR effective Aug. 8, 2001."

**Arkansas Registration (Act 791 of 1997) enacted in 1997.** Under the "Arkansas Home Inspector Registration Act," all home inspectors in the state must register with the Secretary of State. In addition, home inspectors must conduct all inspections in adherence to the Standards of Practice and Code of Ethics of ASHI, the Arkansas Association of Real Estate Inspectors, or an equivalent professional home inspection association. The law also prohibits inspectors from performing repairs on a structure that he has inspected within the last 12 months. In order to register under the law, an applicant must procure general liability

insurance of at least \$100,000 and, if applicable, workers compensation insurance coverage. Home inspectors must also demonstrate a positive net worth, or provide a \$10,000 bond payable to the Secretary of State.

For more information, contact Secretary of State, Division of Corporations  
(501) 682-3409  
(501) 682-3437 f  
<http://www.sosweb.state.ar.us/business.html>

To download the law go to: [http://www.ark-homeinspectors.com/law\\_formatted.htm](http://www.ark-homeinspectors.com/law_formatted.htm).

**California Trade practice act (Chapter 338) enacted in 1996.** The law in California prohibits unethical home inspection practices, including repairing properties that home inspectors have inspected in the previous 12 months. The law encourages courts to consider the Standards of Practice and Code of Ethics of ASHI and the California Real Estate Inspection Association when determining whether an inspection meets the required standard of care.

For more information, contact the License Board  
(916) 255-3900

To download the law go to:  
<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=bpc&group=07001-08000&file=7>

**Connecticut Licensure (Chapter 400F enacted in 1999).** Connecticut law requires home inspectors to be licensed under the "Home Inspection Licensing Board." In order to be eligible for a home inspector license, an applicant shall: 1) have successfully completed high school or its equivalent; 2) have either been engaged as a home inspector intern for not less than one year and not performed less than 200 home inspections for compensation or taken and successfully completed a board-approved training program, earned a home inspector intern permit, and performed not less than 100 home inspections under the direct supervision and in the presence of a licensed home inspector; 3) have passed an oral, written, or electronic competency examination; and 4) have paid a \$200 fee. In order to receive a permit as a home inspector intern, an applicant shall: 1) have successfully completed high school or its equivalent; 2) have enrolled in and completed a board-approved training program; 3) have an identified supervisor who is licensed as a home inspector, is in good standing, and has agreed to perform the supervisory function required; and 4) have paid a \$100 fee.

For more information, contact the Dept. of Consumer Protection, Licenses Service Division  
(860) 713-6000  
(860) 713-7239 f  
email: [licencse.services@do.state.ct.us](mailto:licencse.services@do.state.ct.us)

For Regulations, applications, etc. go to:  
<http://www.dcp.state.ct.us/licensing/professions.htm>

To download the law only go to: <http://www.cqa.state.ct.us/2001/pub/Chap400f.htm>

**Georgia Trade practice act (Chapter 3, Title 8) enacted in 1994.** Georgia law requires home inspectors to provide written documents containing certain information with regard to inspections. This written document must include the scope of the inspection, including the structural elements and systems to be inspected, that the inspection is a visual inspection and that the home inspector will notify, in writing, the person on whose behalf such inspection is being made of any defects noted during the inspection.

For more information, contact the Secretary of State, Construction Industry License Board  
(901) 207-1416  
(901) 207-1425 f  
<http://www.sos.state.ga.us/plb/construct/>

To download the law go to:

[www.state.ga.us/cgi-bin/pub/ocode/ocsearch?docname=-OCODE/G/8/3/330](http://www.state.ga.us/cgi-bin/pub/ocode/ocsearch?docname=-OCODE/G/8/3/330).

**Illinois Licensure (HB 1805) enacted in 2003.** Illinois legislation requires an individual acquire a license in order to conduct home inspections in Illinois. A Home Inspector Advisory Board, housed within the Office of Banks and Real Estate, will regulate home inspectors. The seven-member Advisory Board will be made up of five active and current licensed home inspectors, one licensed real estate broker, and one at-large member representing the general public. The seven members are to be appointed by the Board Commissioner. The law directs the Board to establish standards of practice, educational requirements and administrative requirements as they relate to the practice of home inspection. Home inspectors will be required to take an examination, approved by the Board, thereby establishing a minimum standard of practice or competency. The Board be responsible for developing administrative rules to define and establish the education requirements (classroom/study hours), application and procedures for license renewal, as well as establishing any penalties or disciplinary actions for violating the terms of a license. The law becomes effective January 1, 2003.

For more information contact the Office of Banks and Real Estate  
(217)782-3000  
(217)524-5941 f  
[www.obre.state.il.us](http://www.obre.state.il.us).

To download the law go to:  
<http://www.legis.state.il.us/legisnet/legisnet92/hbgroups/hb/920HB1805eng.html>

**Louisiana Licensure (Chapter 17-A of Title 37) enacted in 1999.** Louisiana law create the "Louisiana Home Inspectors Licensing Act." It creates the Louisiana State Board of Home Inspectors within the Department of Economic Development and requires the Board to establish minimum qualifications for licensing and allows the Board to charge and collect fees. Applicants must be at least 18 years old and must have successfully completed high school or its equivalent, and passed the required examination. Applicants must show evidence of successful completion of at least 120 hours of instruction, at least 30 hours no more than 40 of which must be in course work containing actual practical home inspections. Home inspectors are required to provide a written report of the home inspection, and are prohibited from, at the time of inspection and for a reasonable time thereafter, advertising or soliciting to perform repair services on the home upon which the inspection was performed. As a condition of renewal of a license, a home inspector must show evidence of completion of 20 hours of continuing education. Active licensees are required to carry errors and omission insurance, and the Board must establish a group insurance program.

For more information, contact the Louisiana State Board of Home Inspectors  
225-248-1334  
225-248-1335 fax  
1-866-244-1334.

To download the law go to:  
<http://la.realtorplace.com/Meetings/fallmtng98/agendas/homeinspectbill.htm>.

To download the Rules and Regulations of the Board go to: [www.lsbhi.com/documents/](http://www.lsbhi.com/documents/)

**Maryland Trade practice act enacted in 1992.** Maryland law requires home inspectors disclose professional qualifications and the scope of the inspection within the home inspection contract. The law also requires home inspectors to conduct home inspections in accordance with the standards of practice set forth by a professional home inspection trade association such as ASHI or the National Association of Home Inspectors.

**Licensure (Chapter 470) enacted in 2001.** Maryland law creates the State Commission Real Estate Appraisers and Home Inspectors to regulate home inspectors in the state. The Commission is charged with establishing a code of ethics and standards of practice for licensed home inspectors, and providing a copy of such standards to each licensed home inspector. To qualify for licensure prior to July 1, 2002, an applicant must complete two

the following conditions: 1) complete a minimum of 48 hours of an on-site training course approved by a national home inspection organization of the Commission, 2) complete a minimum of 2 years of relevant work experience as determined by the Commission, 3) complete at least 100 home inspections for compensation, or 4) submit proof of full membership in or certification by ASHI or NAHI. Effective July 1, 2002, an applicant for a home inspector license shall: 1) have completed a minimum of 48 hours of an off-site training course, 2) have a high school diploma or its equivalent, 3) have general liability insurance in an amount not less than \$50,000, 4) submit an application sanctioned by the Commission, 5) pay the application fee of \$50 to the Commission. The law also exempts certain professionals from licensure as a home inspector while acting under the scope of their licenses, and provides a reciprocity provision for licensed home inspectors from other states.

For more information, contact the Division of Occupational & Professional Licensing  
(410) 230-6165  
(410) 333-6314 f  
[www.dlr.state.md.us/license/occprof/reappr.html](http://www.dlr.state.md.us/license/occprof/reappr.html)

To download the law go to: <http://mlis.state.md.us/2001rs/bills/hb/hb0379e.rtf>

**Massachusetts Licensure (Chapter 146) enacted in 1999.** Massachusetts law requires home inspectors and associate home inspectors to be licensed under the Board of Registration of Home Inspectors. The Board is required to: 1) establish the requirements for licensure and for the standards of professional and ethical conduct; 2) establish standards for continuing education; 3) authorize and conduct examinations; 4) grant licenses to qualified applicants; and 5) establish penalties. The law also requires that the Director of Office of Consumer Affairs and Business Regulation publish an informational brochure on home inspections which must be issued to home buyers at the signing of an offer to purchase. Licensed home inspectors must: 1) have successfully completed high school or its equivalent; 2) have been engaged as a licensed associate home inspector for not less than one year and have performed not less than 100 home inspections under the supervision of a licensed home inspector; 3) have passed a written or electronic competency examination; and 4) paid the appropriate fee. A licensed associate home inspector must: 1) have successfully completed high school or its equivalent; 2) have successfully completed a Board-approved training program; 3) have performed not less than 25 home inspections in the presence of a licensed home inspector; 4) have passed a written or electronic competency exam; 5) have an identified supervisor who is a person licensed in good standing as a home inspector; and 6) paid the appropriate fee. Licensees, home inspectors and associate home inspectors must carry errors and omissions insurance in an amount not less than \$250,000. Also, a home inspector or associate home inspector may not attempt to limit liability for negligent or wrongful errors or omissions by use of a clause within a performance contract that limits the cost of damages from negligent or wrongful errors or omissions.

**Amendment to Current Law (Ch. 146 of 1999) enacted in 2001.** The amended section of the law (Chapter 17 of 2001) extends the time period during which the Board may issue a temporary license to an applicant seeking licensure as a home inspector. The law moves the effective date back to November 1, 2001 from May 1, 2001 and establishes the criteria under which a temporary license may be issued. A temporary license may be issued if: 1) an individual has been engaged in home inspection for not less than three years prior to the effective date and has performed at least 100 inspections for compensation, or 2) an individual has been engaged in the practice of home inspection for not less than one year prior to the effective date, and has performed at least 125 inspections for compensation. Temporary licenses shall terminate in 90 days, or whenever the applicant furnishes proof of having passed a licensing examination approved by the Board, whichever occurs first.

For more information, contact the Board of Registration of Home Inspectors  
(617) 727-9921  
(617) 727-2197 f  
[www.state.ma.us/reg/boards/hi/](http://www.state.ma.us/reg/boards/hi/)

To download the law go to: [www.state.ma.us/legis/laws/seslaw99/sl990146.htm](http://www.state.ma.us/legis/laws/seslaw99/sl990146.htm)

For Rules/Regulations of the Board go to: <http://www.state.ma.us/req/boards/hi/cmr.htm>

**Mississippi Licensure (Chapter 539) enacted in 2001.** Mississippi law requires home inspectors to be licensed by the Mississippi Real Estate Commission (Commission) and given the following powers: 1) receiving and approving applications for licensure and collecting fees, 2) implementing recommendations made by the Home Inspector Advisory Board, 3) adoption of a code of ethics and standards of practice, 4) developing a licensure exam which meets nationally recognized standards, as well as developing applications and licensing forms, 6) adopting rules and regulations for administering the law. The law also created a five person Home Inspector Regulatory Board (Board), members of which are to be licensed inspectors, and appointed by the Governor. The Board serves in an advisory capacity to the Commission, and was given the following duties and powers: 1) responsibility for matters relating to the code of ethics, standards and qualifications, 2) holding hearings and preparing examination specifications for licensure, 3) conducting investigations, 4) further defining regulation, educational and equivalent experience, and recommending suspension or revocation of licenses. To qualify for a license under this act a person must: 1) have successfully completed high school or attained an equivalency degree, 2) be at least 21 years old, 3) have successfully completed an approved course of study of at least 60 hours, which may include field work as required by the Commission, pass an examination prescribed by the Commission, and 5) provide a certificate of insurance for errors and omissions and general liability. Certain individuals acting under their profession or license are exempted from additional licensure by the Commission for "visual inspections"--specialty and general contractors, architects, engineers, financial institution employee, licensed real estate broker, appraiser or home builder. There is also a three-year limitation included for clients seeking to recover damages from an inspection reciprocity provision, and a grandfather clause included in the act.

For more information, contact the Real Estate Commission (Home Inspector Regulatory Board)  
(601) 932-9191  
<http://www.mrec.state.ms.us/>

To download the law go to:  
<http://billstatus.ls.state.ms.us/documents/2001/html/HB/0800-0899/HB0848SG.htm>

**Montana Trade Practice Act (Chapter 14, Title 30) enacted in 1999.** Montana law, the Home Inspection Trade Practices Act, prescribes what elements must be identified in a home inspection and defines prohibited activities by a home inspector.

For more information, contact the Office of Building Codes and Inspection  
(406) 444-3933  
(406) 444-2903 f

To download the law go to: <http://data.opi.state.mt.us/bills/BillHtml/SB0210.htm>

**Nevada Certification (Chapter 475) enacted in 1997.** Nevada law provides for the certification of home inspectors of structures by the Real Estate Division of the Department of Business and Industry. Applicants must submit proof that they have errors and omissions insurance of at least \$100,000 and general liability insurance of at least \$100,000. The law also provides that a purchaser may not recover damages from a seller on the basis of an error or omission in the disclosure form that was caused by the seller's reliance upon information provided to the seller by a certified inspector of real estate.

For more information, contact the Department of Business and Industry, Real Estate Division  
[http://red.state.nv.us/inspector/insp\\_home.htm](http://red.state.nv.us/inspector/insp_home.htm)  
(775) 687-4280  
(775) 687-4868 f

To download the law go to: [www.leg.state.nv.us/nrs/nrs-645d.html](http://www.leg.state.nv.us/nrs/nrs-645d.html) and  
[www.leg.state.nv.us/nac/nac-645d.html](http://www.leg.state.nv.us/nac/nac-645d.html)

**New Jersey Licensure (Chapter 8, Title 45) enacted in 1998.** New Jersey's "Home Inspection Professional Licensing Act," sets specific educational and experience requirements in order to become a licensed home inspector. All home inspectors are required to: 1) complete high school or its equivalent; 2) serve as a licensed associate inspector for at least one year; 3) perform at least 250 inspections; 4) carry \$500,000 in insurance; and 5) pass the ASHI exam. Inspectors do not have to be a member or candidate of ASHI in order to take the exam. In order to become a licensed associate home inspector under the law, an inspector must: 1) perform at least 50 inspections in the presence of a licensed inspector; and 2) pass the ASHI exam. Also, the law provides that if home inspectors fail to disclose problems or accept payment from another party in the transaction, they can lose their license. Home inspectors are regulated by a five-member Home Inspection Advisory Committee, housed under the State Board of Professional Engineers and Land Surveyors.

For more information, contact the Department of Law and Public Safety, Office of Consumer Protection  
 (973) 504-6200  
 (973) 504-3538 f  
[www.state.nj.us/lps/ca/nonmed.htm](http://www.state.nj.us/lps/ca/nonmed.htm)

To download the law go to: <http://www.state.nj.us/lps/ca/pels/histats.htm>

**North Carolina Licensure (Chapter 143) enacted in 1993.** The North Carolina "Home Inspection Licensure Act" provides for the licensing and regulation of home inspectors through the creation of a Home Inspector Licensure Board within the Department of Insurance. In order to become licensed as a home inspector, an individual must pass the licensing examination prescribed by the Board, have minimum net assets or a bond in an amount determined by the Board (not less than \$5,000 nor more than \$10,000) and meet certain educational conditions, including: 1) have a high school diploma or its equivalent and have been engaged as a licensed associate home inspector for at least one year, and have completed 100 home inspections for compensation; 2) have education and experience that the Board considers to be equivalent to that in subpart 1. above; or 3) be licensed as a general contractor, architect, or professional engineer. In order to become licensed as an associate home inspector, an individual must pass a licensing examination prescribed by the Board, have a high school diploma or its equivalent, and be affiliated with or intend to be affiliated with a licensed home inspector and submit a sworn statement by the licensed home inspector with whom the applicant is or intends to be affiliated certifying that the licensed home inspector will actively supervise and train the applicant.

For more information, contact the Inspector License Board  
 (910) 715-0991  
[www.ncdoi.com/](http://www.ncdoi.com/)

Scroll down to Home Inspector Licensure Board

The General Statutes and the Administrative Code are meant to be used together.

To download Chapter 143 go to:  
<http://www.ncdoi.com/OSFM/Documents/Engineering/HILB/NCHILBStatutes.PDF>

To download the Administrative Code go to:  
[www.ncdoi.com/OSFM/Documents/Engineering/HILB/BoardRules2000.PDF](http://www.ncdoi.com/OSFM/Documents/Engineering/HILB/BoardRules2000.PDF)

**Oklahoma Licensure (Section 858-622 of Title 59) enacted in 2001.** The "Oklahoma Home Inspection Licensing Act" provides for the licensing of home inspectors through the State Board of Health, and a newly created Committee of Home Inspector Examiners (Committee). The Committee is charged with advising the Board of Health in establishing rules relating to: 1) qualifications and examinations for licensure, 2) renewal requirements, 3) reinstatement of licenses, 4) continuing education, 5) standards of practice and prohibitions, 6) approval of schools and educational course content for home inspection standards for schools to remain approved to provide courses of instruction, 8) reciprocity

agreements, and 9) investigative procedures. In order to take an examination for licensure, an applicant must be at least 18 years of age, and successfully complete 50 hours of home inspection training, or its equivalent, as determined by the Committee. Renewal of licensure will be granted provided home inspectors attend five hours of continuing education within the preceding 12 months. A grandfather clause is included as well, with a sunset date of January 1, 2002. Under the law, licensed home inspectors will be required to carry no less than \$50,000 of general liability insurance.

For more information, contact the Department of Health  
(405) 271-5217

[www.health.state.ok.us/](http://www.health.state.ok.us/)

To download the law go to: [http://www2.lsb.state.ok.us/2001-02SB/sb198\\_sflr.rtf](http://www2.lsb.state.ok.us/2001-02SB/sb198_sflr.rtf)

**Oregon Certification (ORS 701.350, 355) enacted in 1997.** The Oregon Home Inspection Certification Law requires individuals who perform home inspections of two or more components to be certified by the Oregon Construction Contractors Board (CCB). An individual must meet minimum training and/or experience requirements to take a comprehensive test, pass the test and complete continuing education courses to renew certification. The Oregon Standards of Practice, Standards of Behavior and Definitions are adopted from the ASHI Standards with Oregon amendments; Oregon acknowledges the assistance of ASHI in developing its standards and definitions. Each certified home inspector must be an owner or employee of a business licensed with the CCB. Businesses that perform home inspections must be licensed with the CCB in categories that require either a \$10,000 or \$15,000 bond and either a \$300,000 or \$500,000 liability insurance policy. **Amendment to current law** (ORS 710.35, Chapter 812). The amendment to current law provides an exemption for a home inspector acting within the scope of his/her certification or licensure, from licensure as a real estate appraiser.

For more information, contact the Construction Contractors Board  
(503) 378-4621  
(503) 373-2007 f  
<http://www.ccb.state.or.us/CCBHome.htm>

To download ORS 701.350 go to: <http://ccbed.ccb.state.or.us/WebPDF/CCB/statutes/hi>

For information on Continuing Education Units go to:  
<http://ccbed.ccb.state.or.us/WebPDF/CCB/Publications/hi-ceu.pdf>

For a Summary of the Standards of Practice go to:  
<http://ccbed.ccb.state.or.us/WebPDF/CCB/Publications/hi-s-sop.pdf>

For the full text of the Rules of the Board, including the full Standards, go to:  
<http://ccbed.ccb.state.or.us/WebPDF/CCB/Publications/hi-s-sop.pdf>

For information on the Oregon Exam go to:  
<http://ccbed.ccb.state.or.us/WebPDF/CCB/Publications/HI-AP-P.pdf>

**Pennsylvania Trade Practice Act (Act 114 of 2000, Title 68 enacted in 2000).** The law provides a uniform definition for the term "home inspection" and for a national home inspection association. It establishes that a home inspector shall conduct their inspection in accordance with the standards of practice set forth by a professional home inspection trade association such as ASHI or the National Association of Home Inspectors. It further outlines consumer remedies as they relate to a home inspection, and establishes penalties for misrepresentations of fact in an inspection report. Under the law, home inspectors are required to maintain errors and omissions and general liability insurance coverage of not less than \$100,000 per occurrence and \$500,000 in the aggregate. The law is scheduled to take effect in December 2001.

For more information, contact the Pennsylvania Bureau of Consumer Protection  
(717) 787-9707

To download the law go to:

<http://www.legis.state.pa.us/WU01/LI/BI/BT/1999/0/SB1032P2140.HTM>

**Rhode Island Trade practice act enacted in 1996.** The law in Rhode Island forbids home inspectors, pest control inspectors, and contractors from doing work on property that is inspected prior to real estate sales. The law was passed to help eliminate activities that could present a conflict of interest.

**Licensure (Chapter 65.1) enacted in 2000.** Rhode Island law creates a home inspector licensing law and requires that all home inspectors be licensed. Home inspectors would be required to maintain \$250,000 of liability insurance and would be required to pass written examinations. This law will take effect on January 1, 2001.

For more information, contact the RI Contractors' Registration Board

(401) 222-1268

(401) 222-2599f

[www.crb.state.ri.us/inspectors.htm](http://www.crb.state.ri.us/inspectors.htm)

To download the law go to:

**South Carolina Licensure (Title 40, Chapter 59, Article 3) enacted in 1996.** South Carolina law requires any person desiring to be a licensed home inspector to file with the South Carolina Residential Builders Commission. A home inspector must show to the satisfaction of the Commission that he is currently certified as a home inspector by an organization recognized by the Commission, that he has a minimum of one year of experience as a home inspector under the supervision of a licensed inspector, and that he has performed a minimum of fifty residential inspections.

For more information, contact the Department of Labor, Licensing and Regulation

Residential Builders Commission

(803) 896-4363 main

(803) 896-4603 for

Home Inspectors

[www.llr.state.sc.us](http://www.llr.state.sc.us)

To download the law go to: <http://www.lptr.state.sc.us/code/t40c059.htm>

**South Dakota Licensure (Chapter 3621C) enacted in 2000.** The South Dakota law provides for the regulation of home inspectors. The South Dakota Real Estate Commission shall issue and renew certificates to licensed and registered home inspectors pursuant to the provisions of this law. No person may provide a home inspection for compensation unless registered or licensed in the State of South Dakota. Applicants for a license as a home inspector shall meet the following requirements; 1) Good moral character; 2) Completion of high school or equivalency; 3) Employment as a registered home inspector for no less than one year and performance of not less than one hundred home inspections for compensation; 4) Successful completion of licensing exam. Applicants for registration as a home inspector shall meet the following requirements; 1) Good moral character; 2) Completion of high school or equivalency; 3) Successful completion of an approved course of study; 4) Successful completion of registration exam.

For more information, contact the Real Estate Commission

(605) 773-3600

(605) 773-4356 [www.state.sd.us/sdrec/](http://www.state.sd.us/sdrec/) To download the law go to:

<http://www.state.sd.us/sdrec/home%20inspector%20statutes.htm>

**Tennessee Certification (Title 62, Chapter 6, Part 3) enacted in 1997.** Tennessee law only applies to the inspection of new construction and authorizes such inspections if the inspector is: 1) a licensed contractor; 2) certified by the state as a fire prevention officer building official; 3) certified by the Southern Building Code Congress; 4) certified by the Home Inspectors of Tennessee Association; or 5) certified by ASHI. The law only applies

inspectors in certain counties in Tennessee.

For more information, contact the Department of Commerce, Division of Regulatory Boas  
(615) 741-3449  
[www.state.tn.us/commerce](http://www.state.tn.us/commerce)

To download the law go to:  
<http://198.187.128.12/tennessee/lpext.dll?f=templates&fn=fs-main.htm&2.0>

**Texas Licensure (Title 113A, Article 6573a, Section 23) enacted in 1991.** The Texas licensure law, the Real Estate License Act, provides for the examination of home inspectors and established continuing education requirements. The law also requires home inspector applicants to work as apprentice inspectors under the supervision of a professional licensed home inspector. If an applicant is unable to obtain an apprenticeship, educational course work and an examination can be substituted. Home inspectors are regulated by the Texas Real Estate Licensing Board.

For more information, contact the Texas Real Estate Commission  
(512) 465-3900  
(512) 465-3910 fax  
[www.trec.state.tx.us/](http://www.trec.state.tx.us/)

To download the law go to: <http://www.capitol.state.tx.us/statutes/vn/vn00113A.html>

To download the Rules go to:  
[http://info.sos.state.tx.us/pub/plsql/readtac\\$ext.ViewTAC?tac\\_view=5&ti=22&pt=23&ch=535&](http://info.sos.state.tx.us/pub/plsql/readtac$ext.ViewTAC?tac_view=5&ti=22&pt=23&ch=535&)

**Virginia Certification (Chapter 723, adding Chap. 5 of Title 54.1) enacted in 2001.** Virginia certification law provides a voluntary certification program for home inspectors in the state. However, no person may hold him/herself out as a "certified home inspector" without meeting the certification requirements prescribed by the Board. The Board may issue a certificate to practice home inspection to any applicant who has successfully completed: 1) any educational requirements as required by the Board, 2) any experience requirements as required by the Board, and 3) passed any written or electronic examination offered or approved by the Board. The Board may issue a certificate to practice as a certified home inspector to any applicant who is a member of a national or state professional home inspector association approved by the Board, provided that the requirements for the class of membership in such association are equal to or exceed the requirements established by the Board for all applicants. Because the law was enacted recently, the language does not include specific requirements. The Board is undoubtedly working on creating those rules and requirements, in preparation for the law's July 1, 2002 effective date.

For more information, contact Virginia Board for Asbestos, Lead, and Home Inspectors  
(804) 367-8507  
[http://www.state.va.us/dpor/asb\\_main.htm](http://www.state.va.us/dpor/asb_main.htm)

To download the law go to:  
<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC5401000000500000000000>

In PDF: [http://www.state.va.us/dpor/asb\\_finalreq.pdf](http://www.state.va.us/dpor/asb_finalreq.pdf)

**Wisconsin Certification (Chapter 440.97) enacted in 1998.** Under Wisconsin's law, home inspectors must register with the State and pass an examination approved by the Department of Regulation and Licensing. The law instructs the Department to consider the use of an examination modeled after ASHI's examination. The law also requires that a home inspector perform a "reasonably competent and diligent" inspection; however, the inspection is not required to be technically exhaustive. Home inspectors are prohibited from limiting their liability from damages resulting in a failure to conduct a "reasonably competent and diligent" inspection. Also, inspectors are prohibited from performing repairs, maintenance, or improvements to a structure that they have inspected within the last two years.

For more information, contact the Department of Regulation and Licensing

(608) 266-2112

(608) 267-0644 f

<http://www.state.wi.us/agencies/drl/>

or go to: [www.drl.state.wi.us/Regulation/applicant\\_information/dod1200.html](http://www.drl.state.wi.us/Regulation/applicant_information/dod1200.html)

To download the law go to: <http://www.legis.state.wi.us/statutes/99Stat0440.pdf> (see section 440.97)

To download all WS Statutes and Rules pertaining to HI's go to:

[http://www.drl.state.wi.us/Regulation/publications/admincode\\_statutes\\_h-m.htm#Home](http://www.drl.state.wi.us/Regulation/publications/admincode_statutes_h-m.htm#Home)

HOME

[Homebuyers/Sellers](#) | [Inspectors](#) | [Find an Inspector](#) | [Members Only](#) | [InspectionWorld](#)  
[Media & Publicity](#) | [About Us](#) | [Contact Us](#) | [Search/Site Map](#) | [Privacy](#)

---



By Rick Jarvis, CRS, CRP  
Associated Broker  
Re/Max Properties

## Should We Care Who the Buyer Chooses to Do a Home Inspection?

Who are those guys who have so much influence on the residential real estate market? Their written reports and recommendations affect the buying and selling of millions of dollars worth of properties each year. But they are NOT state tested for knowledge, or licensed or regulated in any manner. Their reports and their opinions can and often do influence the decision making of buyers, lenders, appraisers, real estate agents, underwriters, contractors, and specialists of all kinds. Yet they are Not regulated in any manner.

Let me ask you a few questions: What is the purpose of a home inspection? What do you know about the background, experience and training of your favorite "home inspector?" Why should we care? As a Buyer's Agent, should we care who the buyer chooses to do a home inspection? As a Seller representative, should we question a home inspection report or depend upon the appraisers and lender to scrutinize these reports? Have you ever asked a home inspector to show you where his recommendations for repairs are supported by code or lender requirements?

Perhaps the most important question to ask a home inspector is: DO YOU HAVE ERRORS AND OMISSIONS INSURANCE? Could this be important information for a buyer, seller or real estate agent to know about? What if the home inspector makes a mistake? A few are trying to hold their liability to only the cost of the home inspection report. One home inspector said the reason he did not have E & O insurance was to avoid being sued. "That way they don't come after me." Gee. I wonder who a disgruntled buyer or seller will look to next?

Now don't get me wrong, and let me make it perfectly clear: I do believe that there is a vital place and purpose for home inspections within the scope of a real estate transaction. In fact I believe that almost every home inspector I have met tries his best to do a thorough and conscientious inspection.

After conducting an informal survey of home inspectors, the following observations were made.

1. *Every home inspector interviewed agreed that some*

*form of reasonable and reliable regulation for home inspectors is needed.*

2. *Only about half the home inspectors interviewed had Errors and Omission Insurance.*

3. *Three years was about the average time frame a home inspector has been in the business.*

4. *Most thought the American Society of Home Inspectors (ASHI) set the best standards and qualifications for a person to become a home inspector.*

5. *Most every home inspector had a construction, engineering or architectural background.*

6. *On average the home inspectors interviewed conducted between 125-175 home inspections a year.*

The demand for home inspections is ever increasing. Relocation companies are now requiring home inspections on the home purchase by transferee as a requirement for a "buy out" program when the employee is transferred again. Alaska Housing is planning to make home inspections "mandatory" for a buyer to sign. It makes buyers aware of the importance of a home inspection and asks them to indicate whether or not they will be obtaining a home inspection. Indeed, home inspections are becoming a normal routine for most residential transactions.

Let me suggest that all home inspectors organize themselves to become self-regulated. They should set the standards by which all home inspections are conducted and establish the qualifications to become a general home inspector in Alaska. They need to have continuing educational courses. They should have standardized written report forms. They need to have E & O Insurance. They should do this ASAP. And if they cannot organize themselves, then the Real Estate Commission, interested REALTOR® Boards, real estate agents, brokers, appraisers, home inspectors, banks and mortgage companies should create a task force to ask the State Legislature to regulate home inspectors.

In the meantime, what to do? Ask lots of questions -- E&O, background, experience, how report is structured, easy to understand, how long to receive, fees, liability, issues, etc. The Anchorage Board is looking for your input about this process. Please send your comments/recommendations: Fax - 563-8476.

## Home-inspection bill would help buyers



**CLAIR  
RAMSEY**

Home inspections have become an intricate part of the home-buying process. As the importance of home inspection has increased, so have concerns of regulating this relatively new profession in Alaska. Legislation sponsored by state Rep. Norm Rokeberg, R-Anchorage, has taken on the job.

Rokeberg's proposal — HB207 — calls for state oversight of home inspectors similar to that applied to real estate agents, with licensing, bonding and educational requirements.

With input of local inspectors and the rest of the real estate industry, I hope that this proposal will be the guideline to ensure professional inspections provide adequate consumer protection with a minimal amount of government regulation.

Home inspections have also become a focal point for changes to the Federal Housing Authority's appraisal process. Andrew Cuomo, federal secretary of Housing

Please see Page C-2, RAMSEY

ADN  
27 June 1999 C-1

## RAMSEY: Bill would help buyers

Continued from Page C-1

and Urban Development, recently announced an initiative to provide extra protection to the more than 1 million families that obtain FHA-insured loans each year. FHA-insured loans allow buyers who may not qualify under other financing programs to purchase a house using a minimal amount of money up front (a little more than 3 percent of the purchase price).

Key aspects of the Homebuyer Protection Initiative include: 1) Educating consumers about appraisals and inspections; 2) mandatory testing of appraisers to ensure quality appraisals; and 3) uncovering significant hidden defects in houses before purchase by providing a more comprehensive appraisal.

The reason for the change in focus is in response to major defects in houses being sold that are not detected before the sale. A new home buyer who barely qualifies for a loan typically lacks cash to make major repairs. As a result, some buyers defaulted on their mortgages, filed for bankruptcy or both.

The FHA's Homebuyer Protection Initiative encourages buyers to obtain a home inspection and not rely solely on the appraisal. The agency believes the home inspection is so important it even allows the

### *The Homebuyer Protection Initiative encourages buyers to obtain a home inspection.*

areas for deficiencies normally covered under a home inspection. Such areas include health and safety issues; electrical, heating and plumbing systems; the structural condition of the walls, ceilings and foundations, as well as other items.

To eliminate the liability inherent with working outside their area of expertise, one solution may be for appraisers to receive a copy of the home inspection before completing their appraisal. Because the inspection typically occurs before the appraisal, this is easy to do. If for any reason the appraisal is ordered first, the appraisers can complete the investigative work but hold back the appraisal until they can review the inspection report.

In an era of specialization, every aspect of buying a house needs to be dealt with by the proper professional. The lender provides the best financing to fit your needs, the appraiser determines value and the home inspector examines the property for soundness and safety. Doubling up on services is like asking the surgeon or anesthesiologist to do the other person's job. Not only is it inefficient, but it may even be dangerous. The 1998 was an economic disaster for Bristol. But it wasn't enough. Not nearly. In fact, but salmon catch.

1998 1999 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908 1907 1906 1905 1904 1903 1902 1901 1900 1999 1998 1997 1996 1995 1994 1993 1992 1991 1990 1989 1988 1987 1986 1985 1984 1983 1982 1981 1980 1979 1978 1977 1976 1975 1974 1973 1972 1971 1970 1969 1968 1967 1966 1965 1964 1963 1962 1961 1960 1959 1958 1957 1956 1955 1954 1953 1952 1951 1950 1949 1948 1947 1946 1945 1944 1943 1942 1941 1940 1939 1938 1937 1936 1935 1934 1933 1932 1931 1930 1929 1928 1927 1926 1925 1924 1923 1922 1921 1920 1919 1918 1917 1916 1915 1914 1913 1912 1911 1910 1909 1908

# Expert home inspections useful for buyer and seller



CLAIR  
RAMSEY

Previously I discussed licensing of home inspectors (June 27, Page C-1). This time, let's focus on the actual home inspection. After a buyer and seller sign a purchase agreement on a home defining price and terms, the home inspection occurs. By the time the inspection report and buyer's request for repairs is delivered to the seller, the home typically has been off the market for two weeks.

In many cases the results of the inspection report reopen negotiations between buyer and seller. Negotiating on repairs can delay closing, and it rarely is resolved to the seller's liking. The lender and/or appraiser also may require repairs of major items noted in the inspection before financing the home.

The home inspection report typically groups items between minor ongoing

maintenance and major repairs. Major repairs are of most concern to buyers and sellers alike. Major problem areas frequently include the roof, groundwater, furnaces and decks.

Let's start with the roof. What is the age and condition of the roof? Is the roof ventilated or non ventilated? Does the roof have an ice shield? If the roof is 2 to 3 years old, there should not be a problem. If the roof is 20 years old, per-

haps there are reasons for concern. Non ventilated roofs are subject to condensation problems not always visible on the home's interior. Ice shields help prevent infiltration of water when ice dams form in the winter months. Replacing or repairing a roof can be expensive.

Groundwater problems are a second

Please See Page C-5, RAMSEY

ADN 23 July 1999 p C-1

## RAMSEY: Inspections focus on repairs.

Continued from Page C-1

area of concern. Is there evidence of water in the crawl space? How is water removed from the crawl space? Does your home have a sump pump? Does it pump into the city sewer — which is illegal — or to an outside drain? Does the ground outside slope away from the home, or toward it? Ground that slopes toward the house may send water into the crawl space or basement. The crawl space is an area where homeowners rarely look, unless a problem arises. Groundwater problems can also be expensive to repair.

The third problem area is the furnace. What is the condition of the furnace or forced-air heating systems? Does the furnace have a cracked heat exchanger? If it is 10 to 15 years old, it may have. This may necessitate a new furnace if the heat exchanger cannot be economically replaced.

As Anchorage ages, it becomes evident that many homes built in the late '70s and early '80s are not withstanding the test of time gracefully. Decks and bathrooms are typical areas of concern in older homes. Most decks were built with fir, and homeowners did not fully understand the upkeep required. Many of these decks are now rotting and require renovation or even complete replacement.

Bathrooms in older homes may also need

attention. Walls around tubs and showers may be showing evidence of deterioration as water penetrates through the grout between the tile to the sheet rock behind. Removing and replacing select tiles can be difficult, particularly when trying to match older ceramic tile. However, repairing either of these areas prior to putting your home on the market helps demonstrate that your property has been adequately maintained.

Before you sell your home, find out if you have a major problem. Don't worry about small items like ground-fault circuit interrupter outlets (GFCIs), seismic straps or hot water tanks. Focus on the bigger-cost items. If you have any concerns about these types of problems, address them before going on the market. Have your real estate agent recommend an inspector to check specific areas of concern. If you wait, it will be harder to get the buyers to adjust the sales price or participate in repairs after they make an offer. Completing repairs first may allow you to recover some of the expense with an increase in the sales price.

Clair Ramsey, CRS, is a local associate broker specializing in residential real estate. His opinion column appears every fourth Sunday. His e-mail address is ramsey@alaska.net.

## INSPECT THE INSPECTOR: Choosing the Right One Can Help Avoid Costly Mistakes

by Karen Crawford, HouseMaster, 346-9190, hmalaska@pobox.alaska.net

Home buyer horror stories are plentiful: A new home owner finds the roof leaks during the first rain, the circuit breakers blow the first time everything gets plugged in, the furnace malfunctions during the first cold snap.

Buying a home is fraught with perils that are supposed to be eliminated with a professional home inspection. Unfortunately, such new homeowner nightmares can, and do, happen - even when a "professional" home inspector was called in to inspect the prospective home.

Many homebuyers think they are automatically protected against risk and liability when they order a home inspection. But home inspectors, unfortunately, are not all created equal.

There is so much riding on the inspection, yet many homebuyers don't know what qualifications they should be looking for in an inspection firm.

### Inspection Industry Unregulated

There is no "official" regulation of the home inspection industry with regard to training, experience or insurance coverage, so credentials and credibility vary widely. It's the 'consumer beware' in this situation.

The home inspection industry grew out of a group of contractors, roofers and plumbers who supplemented their earnings during slow periods with inspections. These "independents" often did not have the complete knowledge of the total workings of a house and their findings were not always impartial.

Along with the boom real estate market in the 80s, the residential home inspection industry grew rapidly. Today, the consumer has the choice of hiring an independent inspector, who may or may not do it as a full-time profession, or go with an inspection company whose sole business is home inspections. These firms run the gamut from small "mom and pop" operations, to companies or franchise offices affiliated with a large national corporation. HouseMaster, with more than 230 offices across the U.S. and Canada, falls into the latter group.

### Insurance & Training of Great Importance

Because there is no federal, state or provincial regulation of the home inspection industry, consumers need to know what to look for when hiring an inspector. While everyone - trained or not - is capable of making a mistake, the outcome can vary greatly depending on several key factors. Carrying the necessary insurance - called "Errors and Omissions (E&O)" insurance - is one of these critical factors.

In the event your buyer must bring a lawsuit against an uninsured inspector, chances are he'll simply go out of business and they will never collect the money needed for repairs, even if you win your case in court.

For maximum benefit and liability protection for both buyers and sellers, HouseMaster advises that it is essential to hire a home inspection firm that employs inspectors with all of the following credentials:

\* **Training and Technical Support:** training in all aspects of home inspection and ongoing support for questions and changes in residential construction techniques and systems.

\* **Certification:** certification by a reputable training institute, which requires re-testing annually, such as The American Society of Home Inspectors (ASHI) or National Institute of Building Inspectors (NIBI).

\* **Insurance:** insurance coverage, including general liability, worker's compensation and especially E and O insurance, which is like malpractice insurance

\* **Written Guarantee:** a formal written guarantee, which backs up the inspection findings.

If the inspector is missing any of these important credentials - particularly the E and O insurance - don't hire them. Even if they say they are certified, that does not guarantee that they have all the other credentials.

Large reputable companies have helped set many industry-accepted inspector requirements with their own stringent rules. HouseMaster, for example, requires all its franchise offices to carry Errors and Omissions insurance. It encourages all of its offices to have their inspectors trained and certified.

### Engineer Versus General Inspector

Many engineers have been drawn to the inspection field as their industries have changed and scaled down, such as the defense industry or the aerospace industry. Consequently, there has been some confusion about whether to hire an 'engineer' or a 'general inspector'. But licensed engineers - even trained structural engineers - may not know a great deal about heating, plumbing, electrical systems or roofing. Hiring one for a home inspection is just like getting a heart specialist to do a general physical. Consumers should verify specifically what home inspection and experience training they have had in addition to their engineering background.

The biggest misconception is that structural problems can only be detected by a structural engineer. Properly trained inspectors are totally capable of detecting structural deficiencies.

In reality, the incidence of structural problems with resale homes is only around two percent, according to HouseMaster statistics. The highest incidence of problems, however, is with electrical wiring, water penetration, plumbing, heating and roofing, depending on the age of the home.

Is a structural engineer going to be able to find an electrical or heating system deficiency? These are serious and often expensive problems to be concerned with.

(Continued on Page R1)

(Continued from Page 7)

According to Warren Boroson, co-author with HouseMaster chairman Kenneth Austin of "The Homebuyer's Inspection Guide" available in bookstores, most homebuyers seem more comfortable dealing with people who have extensive home inspection experience, rather than those who have only advanced degrees. For example, an engineer may have studied aeronautical or chemical engineering, both of which offer no practical expertise in the systems that make a house work.

It's really critical to find a home inspector who is knowledgeable about all the systems within a home, is trained to look for symptoms of problems and keeps up to date on equipment and repair techniques. In the small percentage of cases where a structural condition is detected during an inspection, we may recommend further evaluation by a licensed engineer.

**Proper Insurance Coverage Key Factor in the Litigious '90s**

Critical to the home inspection is that the inspection firm or inspector carries all the proper insurance coverage. This helps ensure that the buyer is not financially responsible if the inspector makes an error (E&O), falls off the roof (Worker's Comp) or damages the seller's property in some way (General Liability).

Errors and Omissions insurance in real estate is the equivalent of malpractice insurance. This is very difficult insurance for home inspectors to obtain. If your buyers find an inspector who does not carry this type of insurance, it is usually an indication that the inspector has had no formal training, or has a poor track record in the industry.

Because of the cost of E and O insurance and the difficulty in qualifying for it, a small percentage of independent inspectors will carry it.

General liability insurance and worker's compensation is also extremely important. Without such coverage, the homebuyer assumes a large degree of liability for the safety and well being of the inspector while in the employ of the homebuyer during the inspection.

**Independent Vs. Large Inspection Firm**

There are other advantages to hiring a home inspector who works for an established company. National companies have set requirements for hiring, training, professionalism and insurance coverage; they have credibility and experience; and they can offer special services and technical support to customers and inspectors.

It is also important to ask whether the inspection firm will stand behind its inspection with a formal, written guarantee. HouseMaster, for example, includes in the inspection fee, a complimentary 90-day guarantee on the inspection for most of the major elements in the home that it found to be satisfactory at the time of the inspection.

In addition, its technical information center is available for buyers who want to know more about how to maintain or repair equipment in their home.

Educating homebuyers about the operation and maintenance of their new home is one of our main objectives. We encourage buyers to

(Continued on Page 14)

**Finally**

**A Tax Break  
For  
Self-Employed**

**MSAs**  
(Medical Savings Accounts)  
Passed by Congress  
Signed by President

- a) \$ into MSA = 100% tax-deductible\*
- b) \$ into health premium = 45% tax-deductible

For many self-employed, a) and b) combined will cost less than conventional health insurance.

The law is more detailed than we can describe here. For more information on getting a tax-advantaged MSA, call:

**Lonnie Crosby**  
Phone: 907-248-6348  
Fax: 907-243-7847

**Golden Rule®**

3118-297 \*Law dictates funding maximums  
Form # C-3-006 J, C-006 4 Not available in all states  
Copyright (c) 1997 Golden Rule Insurance Company

**Happy Thanksgiving!**

We extend our sincere *Thanks*  
for your valued business and  
*Best Wishes* for the holiday.



**PACIFIC NORTHWEST TITLE**  
OF ALASKA INC.

**3201 C Street, Suite 110 • Anchorage, Alaska 99503**  
Main: 561-5122 • Fax 261-2202

(Continued from Page 8)

come along on the inspection, ask questions and call our office afterwards. We also provide printed material and a free instructional videotape on home maintenance and repairs as part of our comprehensive inspection package.

When you consider the potential risk and liability involved with the purchase or sale of a home, it pays to shop for the best - not the cheapest - inspection service available in your area.

**The Six Most Important Questions to Ask When Hiring A Home Inspector**

1. Is home inspection your only business?

Make certain it is, in order to avoid any potential conflicts of interest. Many independent inspectors do it on a part-time basis to supplement their real businesses as contractors, roofers, etc., and their report findings might be suspect.

2. Do you carry all the necessary insurance, including professional liability (E&O), general liability and worker's compensation?

E&O is the number one priority, says Warren Boroson, co-author of the Homebuyer's Inspection Guide. This malpractice-type insurance protects the inspector (and indirectly the homebuyer and those referring the inspector) against post-inspection legal problems. General liability covers personal liability not covered by the basic E&O policy and worker's compensation covers the safety of the inspector during the inspection.

3. Does the home inspection firm offer a written guarantee on the inspection?

It's best to hire an inspection company that offers a formal, written guarantee along with the inspection, although not many do.

4. How long does the inspection take and can the homebuyer accompany the inspector?

Yes, they should. A professional inspection of the average house takes about two hours. Be skeptical of home inspectors who don't want you to tag along. Inspectors who invite the homebuyer along will often offer valuable maintenance tips.

5. What type of a report will they buyer receive and when will they receive it?

There are various types of reports given by professional inspectors, including typed narrative (sent to the homebuyer within a week), and on-the-spot written reports for those who need or want the information as soon as possible. Don't accept a verbal report without a written backup, since you will have no record of the inspector's findings for future referral.

6. Is the inspector trained or certified in home inspection by a recognizable organization, such as the American Society of Home Inspector's (ASHI)?

With no official government regulation of the home inspection industry required in Alaska, certification by ASHI ensures that the inspector meets strict guidelines set forth by one of the largest and most reputable home inspection organizations.

## Real help for real estate pros.

We know the real estate world isn't an 8 a.m. to 5 p.m. business. Count on NBA for flexible and convenient mortgage loan service. Call us today at 257-3434.

**National Bank of Alaska**  
Investing In Your Life



## COURSES BY CORRESPONDENCE TWENTY HOURS FOR 2000 LICENSE RENEWAL

\$250

Need less than 20 hours? Call for Rates!

### Broker Licensing & Training

Broker License Self-Study	\$125
Broker License Exam Prep Software	\$35
Broker Training 15 Required Hours	\$250

Real Estate Associate Learning Systems  
2600 Cordova Street, Suite 100  
Anchorage, Alaska 99503

Kathleen Kowalczuk	Anita Bates
360-1176	243-8777



ALASKA ASSOCIATION OF REALTORS, INC.  
741 Sesame Street, Suite 100 - Anchorage, Alaska 99503  
Telephone 907-563-7133 • Fax 907-561-1779

January 16, 2001

JAN 16 2001

Representative Rokeberg  
State Capitol  
Juneau, Alaska 99801-1182

RE: HB 27 - Relating to the licensing of home inspections

Dear Representative Rokeberg,

The Alaska Association of REALTORS with over 1,100 members statewide supports House Bill 27 relating to the licensing of home inspectors.

We agree that there should be some minimum standards set forth in this bill to protect the consumer. Minimum standards should include but are not limited to testing, insurance, education and the forming of a home inspector bill.

The Association encourages the passage of HB 27 during the first session. We continue to be available as a resource to pass this bill. Please feel free to contact the Association at (907) 563-7133.

Sincerely,

Bill Brady, CRS, GRI  
President





**ANCHORAGE BOARD  
OF REALTORS®, INC.**

REALTOR® *The Voice for Real Estate™* In Anchorage

741 Sesame Street  
Suite #100  
Anchorage, Alaska 99503  
(907) 561-2338  
(907) 563-8476 Fax

January 16, 2001

**JAN 16 2001**

Representative Rokeberg  
State Capitol  
Juneau, Alaska 99801-1182

RE: HB 27 – Relating to the licensing of home inspections

Dear Representative Rokeberg,

The Anchorage Board of REALTORS with over 600 members statewide supports House Bill 27 relating to the licensing of home inspectors.

The Anchorage Board is in agreement with the Alaska Association that there should be minimum standards set forth for home inspectors to protect the consumer.

The Board encourages the passage of HB 27.

Sincerely,

Gary Gearhart  
President



**LESSMEIER & WINTERS**

LAWYERS - LLC

MICHAEL L. LESSMEIER  
GREGORY W. LESSMEIER  
SHELDON E. WINTERS  
COLBY J. SMITH

431 NORTH FRANKLIN STREET  
SUITE 400  
JUNEAU, ALASKA 99801-1186

TELEPHONE: (907) 586-5912  
FACSIMILE: (907) 463-3020  
E-MAIL: l-w@gci.net

February 2, 2001

Representative Norman Rokeberg  
State Capitol  
Juneau, Alaska 99801-1182

FEB 02 2001

Re: CSHB 27

Dear Representative Rokeberg:

I am writing to you on behalf of State Farm Insurance Companies. State Farm insures roughly 75,000 homes in Alaska. Creating a board of home inspectors and requiring licensure, registration and oversight of home inspectors will in a variety of ways only benefit home owners, prospective home purchasers, qualified home inspectors and the public in general. State Farm supports CSHB 27 and encourages its passage.

Sincerely,

LESSMEIER & WINTERS

By:   
Sheldon E. Winters



# WARD

Development  
& Construction Management  
I N C O R P O R A T E D

April 18, 2002

*Ward*  
Dear Legislator:

It is my understanding that HB 27, licensing of home inspectors, will be heard on the House Floor today.

I would like to urge my support for this bill, given it's broad support within the affected industries. This piece of legislation has been in the works for several years and the version you see today is the product of hard work and compromise by the many parties involved.

Some may ask; is this a union issue? It is not. Labor should not be affected.

Others may ask; how will this affect the Third Party Alternative Inspector ordinance that is being introduced at the Anchorage Assembly? It will enhance it. If the Anchorage ordinance were adopted, those inspectors would be licensed and certified, which is good public policy.

I would be available to answer any questions on my cell phone at 229-8403.

Thank you for your support!

*Robin*

Robin E. Ward

# Alaska State Legislature

SENATOR  
BEN STEVENS  
716 WEST 4TH AVENUE  
ANCHORAGE, AK  
99501-2133  
(907) 269-0200  
FAX (907) 269-0204




Session:  
STATE CAPITOL  
JUNEAU, AK  
99801-1182  
(907) 465-4993  
FAX (907) 465-3872

Senate District J

## Memorandum

May 1, 2002

To: Senator Robin Taylor, Chair  
Senate Judiciary Committee

From: Senator Ben Stevens, Chair   
Labor and Commerce Committee

Subject: HB 27 – Registration of Home Inspectors

---

HB 27, registration of Home Inspectors, moved from the Senate Labor & Commerce Committee on April 30, 2002. During public testimony concern with the bill was expressed by a number of testifiers. The sponsor of this legislation, Rep. Rokeberg, indicated that he has worked with these people over the past four years while developing this legislation and it is his view that they will never be satisfied.

Senate L&C committee requested concerns be faxed to our office for the next committee of referral's consideration. Please find attached the letters of concern for your committees' consideration.

Thank you.

Attachments

Cc: Representative Norm Rokeberg

**INFORMATION  
STATEMENT**



# **AKPIRG**

**Alaska Public Interest Research Group**

P.O. Box 101093  
Anchorage, AK 99510

507 E Street, Suite 213  
Anchorage, AK 99501

p: 907.278.3661  
f: 907.278.9300

Testimony on CSHB27 by Steve Conn, Alaska Public Interest Research Group

Prepared for Senate Labor and Commerce, April 30, 2002

While AkPIRG supports regulation of home inspectors, we have the following concerns with the bill as presented:

1. Bonds established both for contractors and inspectors pursuant to Sec. 08.18.071b are woefully low to protect consumers and financial institutions. Each should be raised to \$150,000 plus from \$10,000 and \$5,000, respectively, to protect consumers and lenders. Even the bill's author would exempt construction of \$10,000 or less from provisions of the act Sec.08.18.161, indicative of just how meaningless the bonding levels are in today's real estate market.
2. Limits on liability (one year statute of limitations) Sec.08.18.085 and six month's shelf life for inspection report are overly protective of house inspectors, given the importance of their work.
3. If state regulations are weak, political subdivisions may wish to publish their own regulations and ask for larger bonds. Sec. 08.18.061 prohibits this and should be amended.

Each of these matters would have been addressed by AkPIRG at an earlier date had we been drawn into discussions with realtors and inspectors. Thank you.

AkPIRG, 507 E.St.Suite 213, Anch.99501 2783661

# Ti-Le-An Management, Inc.

our fax 907 376-0879

## FAX COVER SHEET

To: Senate Labor & Commerce

Transmitted on or about: 04/29/02 9:10 AM

From: William Bruu

This fax contains 2 some what (I did it) professionally dictated, machine spell checked and typed pages. Should you not receive the number of pages listed above give us a call at (907) 373-5296 and we will provide you with some cock a mamie excuse about how our machine fails repeatedly or how we can't get good help any more and some lame promise to re-transmit. Of course if you don't get any pages "Never Mind".

Notes and other trash: Gentlemen please consider the attached communication.

Your Fax # is(I Hope) 465-3844

30 APR 2002  
1442  
RE FAXED 465-3872  
RW

In my humble opinion HB27 requires that "Home Inspectors" be in a contractor/sub contractor relationship without addressing workmen compensation issues. A potential home buyer will need to be informed by either the State or the "Home Inspector" that they maybe held liable for a workman's compensation claim.

HB27 as written and adopted by the house mixes two types of inspectors into one set of rules.

- The "Home Inspector" is a private contractor who contracts with a potential home buyer to examine an existing structure ~~once~~ to determine the state of the home at the time of inspection. The purpose of the "Home Inspection" is to determine the status of the home in question as to maintenance, serviceability, and remaining life of installed components.
- The "New Construction Inspector" is required to examine the construction of a new dwelling all the way from a plans review to and including a final inspection. In many cases this requires the inspector to be on site at least eight times. The purpose of the "New Construction Inspector" is to certify that the construction meets minimum code safety requirements.

Additionally the fiscal note attached basically states that the biannual licensing fee will be approximately \$1000.00/yr based upon there being a total of 150 inspectors state wide. This additional overhead cost will motivate some of the present inspector to opt out of licensing. The population will decrease and the licensing fees will increase. These costs will be passed on to the consumers increasing the cost of housing. Inspectors who are located in the smaller economic units of the State will not be able to pass these increased costs to their market and will opt out of the market. In all cases the consumer loses.

Please do not pass this bill without a major effort to rewrite.

*William H. Brown*

① of 6

F. Venuti, P.O. Box 3652, Homer, Alaska 99603  
(907) 235-7480 or 399-1550

April 30, 2002

Senator Ben Stevens  
Twenty-Second Alaska State Legislature  
Senate Labor & Commerce Committee  
State Capitol, Juneau, Alaska 99801-1182

Dear Senator Stevens,

In order to introduce myself, a statement of my qualifications is included with this testimony. Please enter the following testimony into the record regarding House Bill 27. This bill pertains to the licensing of Home Inspectors.

**On section 7, AS 08.18.022, page #4, Lines 23 thru 24**

There examination requirements are extremely vague as the bill discusses "applicable courses". The inclusion of courses offered by the American Society of Home Inspectors would require that the inspector actually join that society. This would add an additional \$350. to the cost of doing business, which would be beyond the cost of the license, bond, and insurance. Most experienced inspectors within in the business consider ASHI membership as something that can easily be purchased from the back of a book of matches and do not hold membership within that organization in very high regard. Reference to ASHI examinations should be removed from this bill.

**On section 9, AS 08.18.031, page #6, Lines 17 thru 31**

The continuing competency requirements as described in this section are also vague. The determination as to what constitutes continuing competency should be clearly spelled out within the bill and not left to the whims of an individual or entity that may not clearly understand the Alaskan new & existing home inspection process. As it currently stands, an inspector who holds any form of ICBO (International Conference of Building Officials) certification must be re-certified every three years. Please understand that is because the codes also change every three years. If the intent of this bill is (as stated on page #1) to regulate inspectors on projects relating to Alaska Housing Finance Corporation, then AHFC should dictate what constitutes continuing competency, not ASHI, or the ICBO or the University of Alaska.

**On section 22, AS 08.18.121a, page #12, Lines 8 thru 11**

The amount of insurance required should be clearly spelled out within this bill.

**On section 30, AS 08.18.156, (8) page #16, Lines 4 & 5**

This effectively eliminates Energy Raters from the provisions of this bill. Energy Ratings are an essential part of the inspection process for AHFC loan packages. Just as the signed-off AHFC Summary of Inspections (PUR 102) becomes part of the legal documentation of a property at closing, so does the energy rating (PUR 101). This bill should also regulate energy raters.

On section 43, page #22, Lines 20 & 21

Most existing inspectors who perform inspections on AHFC properties hold the ICBO Combination Dwelling Inspector certification. This certification requires a higher degree of knowledge than the Building Inspector or Property Maintenance and Housing Inspector examinations listed in this requirement. The Combination Dwelling Inspector certification should be an adequate certification for issuing a joint registration certificate. The cost of taking these redundant examinations adds an additional unnecessary cost to the process.

On section 7, page #25, Lines 21 thru 31 and page #6 Lines 1 thru 10.

This procedure is specific to existing home inspection only. Often on new construction, I never meet the homeowner (s). My contract is with the builder. There is no need for a written report. The only paperwork involved is the signed-off Summary of Inspections (AHFC form PUR 102). My point is that existing & new inspections are not the same process and the writer of this bill apparently does not understand that fact.

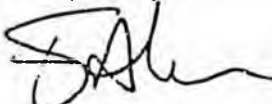
On section 33, AS 18.56.300 (b) page #19, Lines 12 thru 14 and sec. 34, page #20 Lines 7 thru 10.

Allowing other entities to perform inspections contradicts the intent of this bill. Architects and engineers are not required to carry insurance.

It is interesting to note that the impetus for this bill appears to come from the Real Estate Industry. In fact, I have yet to find anybody within the inspection industry in favor of the additional costs and regulations that would be involved if it passes. The sponsor of this bill has stated on a number of occasions that this bill is in response to numerous complaints from consumers. I would like to ask the members of this committee if he is unique in that position or if other members of the committee have fielded similar complaints from consumers. The reality of the market place is that inspectors are not especially popular with realtors. This situation has developed because inspectors often tell realtors things that they do not want to hear. This often effects the anticipated commission that can be made on a deal. I have included a print-out from the construction inspection guidelines as required for new construction on AHFC properties. Please note the section regarding Liability of Inspectors. In addition, a print out of the International Residential Code administrative provisions is included. The IRC is the present code in effect within Alaska for dwellings. Please note Section R104.8. Both of these regulations recognize that the inspector is placed in a perilous position and provide a measure of protection so that the inspector can make independent decisions and not be harassed by frivolous lawsuits. As the law stands now, if the inspector is grossly negligent or participates in misconduct, the inspector can be held liable. If this bill passes and effectively repeals AS 18.56.300, many of us feel that it will be open season on Inspectors. I respectfully request that this bill not be passed.

Thank you for taking the time to read this and for serving our great state.

Respectfully,



F. Venuti  
[fcvenuti@xyz.net](mailto:fcvenuti@xyz.net)

R104.3 - R105.1

ADMINISTRATION

(3) off

structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

**R104.3 Notices and orders.** The building official shall issue all necessary notices or orders to ensure compliance with this code.

**R104.4 Inspections.** The building official is authorized to make all of the required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

**R104.5 Identification.** The building official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

**R104.6 Right of entry.** Where it is necessary to make an inspection to enforce the provisions of this code, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the building official or designee is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

**R104.7 Department records.** The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for the retention of public records.

**R104.8 Liability.** The building official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

**R104.9 Approved materials and equipment.** Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

**R104.9.1 Used materials and equipment.** Used materials, equipment and devices shall not be reused unless approved by the building official.

**R104.10 Modifications.** Wherever there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, provided the building official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements or structural. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

**R104.10.1 Areas prone to flooding.** The building official shall not grant modifications to any provision related to areas prone to flooding as established by Table R301.2(1) without the granting of a variance to such provisions by the board of appeals.

**R104.11 Alternative materials, design and methods of construction and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code. Compliance with the specific performance-based provisions of the International Code Council (ICC) codes in lieu of specific requirements of this code shall also be permitted as an alternate.

**R104.11.1 Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

## SECTION R105 PERMITS

**R105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done,

4306

certification, they will be permitted to inspect the stage of construction for which they are certified. In cases where the inspector is not on AHFC's "ICBO Certified Inspectors" list, the inspector must submit a copy of their certification in order for AHFC to verify their credentials.

In lieu of the Combination Dwelling certificate and the ICBO Electrical certificate, a person holding an International Association of Electrical Inspectors certification may perform the electrical inspection. (All other inspections must be performed by ICBO certified inspectors, except in the rural areas of the state where an architect or engineer that is licensed in the State of Alaska may do the inspections.)

TOP or HOME

#### APPROVED MUNICIPALITIES

Annually, Alaska Housing Finance Corporation will review all municipalities who submit documentation for inspection approval and issue a list of those municipalities who comply with the inspection procedures mandated by AS 18.56.300. This list will consist of those municipalities determined by AHFC to have building codes and enforcement procedures that meet or exceed the standards established for residential housing by the state building code as described above in Codes and Appendixes. In order for the municipality to be approved it must ADOPT AND ENFORCE the codes that meet or exceed those codes identified above in Codes and Appendixes.

TOP or HOME

#### LIABILITY OF INSPECTORS

In accordance with AS 18.56.300 (c), a person may not bring an action for damages against an ICBO inspector who inspected a residential unit unless the action is for damages caused by gross negligence or intentional misconduct of the inspector.

TOP or HOME

#### REQUIREMENTS OF CONSTRUCTION INSPECTIONS

The following is a list of some of the common construction projects that must meet the minimum required inspections.

1. Any dwelling where construction started after June 30, 1992. Start of construction is generally defined as the time at which the footing forms and all reinforcement steel are in place.
2. Any improvement on any dwelling unit where the original construction was started after June 30, 1992. If the original construction required the inspections, the improvements to the living space, whether it is a total renovation or a small addition, will also require the inspections.
3. Newly constructed mobile/manufactured home and modular housing.

TOP or HOME

#### EXAMPLES OF PROJECTS NOT REQUIRING INSPECTIONS

The following is a list of some of the common projects that do not require construction inspections:

1. Additions or renovation to properties where the original construction started prior to July 1, 1992. However, AHFC may require inspections of additions or renovations to properties constructed prior to July 1, 1992 by an architect, engineer, appraiser, or other qualified building inspector for purposes of determining quality of construction and compliance with building codes, fire and safety codes, etc. The

[http://www.ahfc.state.ak.us/Department\\_Files/Research\\_&\\_Rural\\_Departme...](http://www.ahfc.state.ak.us/Department_Files/Research_&_Rural_Departme...) 5/1/02

\*  
5 of 6

Franco Venuti, P.O. Box # 3652, Homer, Alaska 99603  
(907) 235-7480 or 399-1550

### Qualification Statement

I have worked within the Alaskan construction industry as a licensed contractor, construction project manager, journeyman craftsman and building, fire/life safety Inspector since 1978. This experience has given me a realistic view of the management and budget processes involved in all types of construction, renovation and property maintenance/ facility repair projects. I understand construction-funding procedures, job cost analysis, project crew management, fire and safety management (OSHA), commercial & residential code compliance as well as new and existing building inspection, evaluation and appraisal. I am a certified ICBO Combination Dwelling Inspector (ICBO #865284-55). In addition, I am a member of the FHA/HUD construction compliance inspection fee panel (Insp.#3516) and also serve as the construction compliance inspector for the Veterans Administration on the Kenai Peninsula (Insp.#1004). My responsibilities in these positions involve performing plan reviews as well as on site inspections of new and existing residential and commercial properties on the lower and central Kenai Peninsula in order to assure compliance with the mandated parameters and minimum property standards of these Federal programs. My credentials also permit me to perform all necessary inspections required to meet the criteria of the AHFC standards of new, and existing construction projects underwritten by this state agency. I understand end use word processing, spreadsheet and data management programs and am Windows, Mac and Internet computer literate. I am very adept as CAD operator with the ability to draft detailed descriptive drawings as well as architectural and engineering plans in both two and three-dimensional planes. I am an excellent drafter and technical writer, am well organized and know how to communicate effectively with others.

### Experience

For the past twenty-two years, I have worked in Alaska as a designer, contractor, renovator, and inspector. I had the opportunity to be involved in the design, management and construction of many residential, commercial and municipal projects. This would include: The Homer High School, The Bradley Lake Hydro-Electric Generating Facility and the South Peninsula Hospital. In 1980-81, our company built the Kachemak Community Center, including playground & picnic shelter. In 1983, I designed and built a three-store mall for the Anchor River Inn in Anchor Point. In 1984, I designed and built the Coal Point Monument. In 1985, I built the Port & Harbor offices addition. In 1991 & 1993, I completed two building renovation construction projects for the South Peninsula Mental Health Center. In addition, during this period, I have been involved in numerous residential design, construction and renovation projects. An extensive list of clients could be provided if required. I write a weekly column for the Homer News related to home maintenance, trade tips and code literacy. I am a certified member of the International Conference of Building Officials (ICBO #865284-55), and am Handicap Access Literate with an understanding of the Americans with Disabilities Act of 1991. I hold journeyman carpenter status with Carpenters Local 1281 and own a complete set of current codes.

7  
⑥ of 6

### Education

Boston Technical High School, Boston Mass. Graduate 1961  
Northeastern University, Boston Mass. BBA Degree Program 1965-1969  
Jordan Marsh Company, Boston Mass. Executive Training Program 1965  
Cape Cod Community College, Barnstable Mass. 1971-1972.  
Banff School of Fine Arts, Banff, Alberta, Canada 1973.  
State of Alaska, Emergency Trauma Technician Training, Homer, AK. 1986.  
Alaska Craftsman Building Energy Efficiency Standards Workshop. 1987.  
Kenai Peninsula College, 1987-present.  
AHFC / ICBO Inspector Training Workshop, Anchorage, AK. 1992.  
Barrier Free Alaska Training Workshop (ADA Access) Homer, Ak. 1992.  
FHA/HUD 203K Program Workshop, Anchorage, Ak. 1994.  
AHFC- Residential Mechanical Ventilation Inspection Workshop, Anchorage, AK. 1999.  
ICBO- 1997 Uniform Building Code Inspectors Workshop, Anchorage, AK. 1998.  
ICBO-Wood Inspection " Wood Framing " Inspectors Workshop, Anchorage, Ak. 1999.  
ICBO- Load Path & Continuity in Engineered Wood Frame Inspectors Workshop, Anchorage AK. 2001.  
ICBO- 2000 International Residential Code Inspectors Workshop, Anchorage, AK. 2001.  
Building Energy Efficiency Standard Ventilation Compliance Workshop, Homer, AK. 2002  
Cold Climate Home Building Workshop, Anchorage, AK. 2002  
Alaska Housing Finance Corporation Mold Hazards Workshop, Homer, AK. 2002  
Continuing self education and improvement through extensive hands-on training as well as trade journals, periodicals & associated product literature.

### References

Drew Scatzi , Alaska House of Representatives, Juneau AK. (907) 465-2689  
Karen Berg-Forrester, Coastal Realty Company, Homer (907) 235-7700  
Jon Faulkner, Lands End Acquisition Corp., Homer (907) 235-0400  
Angie Newby, Homer Real Estate Associates, Homer, Alaska (907) 235-5294  
Dr. William Marley, DDS, Bayview Avenue, Homer AK. (907) 235-8909  
Sam Beachy, Beachy Construction Inc. , Homer, Alaska (907) 235-8876  
Robert Clutts, Anchor River Inn, Anchor Point, AK. (907) 235-8390  
Richard Rodriguez, VA Chief, Construction & Valuation, Anchorage, AK. (907) 257-4700

I am a member of the Alaska Central Chapter ICBO, Anchorage, Alaska .  
I am a member of the Homer ICBO Inspectors Group committee.  
I served one term as a member of the Homer Public Library Advisory Board.  
I currently serve as a member of the Boys & Girls Club of Homer Advisory Board.

**HB**

**32**

## House Committees

Labor & Commerce  
Military & Veterans Affairs  
State Affairs  
Regulation Review

# Alaska State Legislature Representative Joe Hayes

119 N. Cushman, Ste. 205  
Fairbanks, AK 99701  
(907) 456-7423 / Fax: 451-9293  
*While in Juneau*  
State Capitol  
Juneau, AK 99801-1182  
(907) 465-3466 / Fax: 465-2937



## Sponsor Statement

### **HB 32, Sex Crimes and Pornography Forfeitures**

As the use of computers and the Internet expands so too do crimes involving the use of these technologies. One area of particular concern is sex crimes against children. Adults prone to abusing children will use the Internet to solicit a minor for sex or to set up a meeting with a child in order to rape or abuse the child. Further, many people, who are inclined to distribute or view child pornography, are now using their computers to do so. These are new technologies and the state still has relatively few tools for dealing with criminals using these technologies. HB32 provides us with another tool to use in combating sexual predators.

Across the country and at the federal level there are forfeiture laws in place. Several other states already have laws on the books specifically relating to the forfeiture of computers used in sex crimes. The use of computers in sex crimes is a national problem. As more and more states pass forfeiture legislation it is becoming increasingly obvious that this is a useful and valuable tool in the fight against computer crimes.

HB32 would make it possible for the police to stay on top of this rapidly changing industry without spending more state dollars. Advances in computer technologies seem to happen on a daily basis. New technology can often "outwit" last year's model, leaving the police at a large disadvantage in their attempt to curb crimes committed with the aid of the newest technology. In order for the police to combat computer and Internet crimes effectively it is imperative that they be constantly provided with new hardware.

Under AS 12.55.015 (c) the court may award forfeited property or a percentage of it to any municipal law enforcement agency involved in the arrest or conviction of the defendant. This would allow the courts to pass on seized property to the police so that the police can stay up to date with available technology in a cost-effective manner.

HB 32 is designed to help protect our children in a twofold manner: 1) forfeiture is a proven tool in the fight against crime, and 2) the forfeited property can be given to our local law enforcement agencies in order to help make sure that they have the necessary tools to protect our children. I ask for your support in passing this legislation.

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHB 32(JUD)  
(H) Publish Date: 3/22/01

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DPS  
Title: Sex Crime and Pornography Forfeitures BRU: Alaska State Troopers  
Component: AST-Detachments  
Sponsor: Representative Hayes  
Requester: House Judiciary Component Number: 2325

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-------------------------------	------------	------------	------------	------------	------------	------------

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill is not expected to have a fiscal impact.

Prepared by: Lt. Steve Dunnagan Phone (907)269-4532  
Division: Alaska State Troopers Date/Time 2/16/01 12:00 AM  
Approved by: Commissioner Glenn G. Godfrey Date 2/16/01  
Agency: Department of Public Safety

For distribution information, call the Governor's Legislative Office

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1

Bill Version: CSHB 32(JUD)

(H) Publish Date: 3/22/01

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected \_\_\_\_\_  
 Title Sex Crime and Pornography Forfeitures BRU Alaska Court System  
 Component Trial Courts  
 Sponsor Rep. Joe Hayes  
 Requester House Judiciary Component No. 768

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of HB 32.

Prepared by: Douglas Wooliver Phone 463-4750  
 Division Alaska Court System Date/Time 2/15/01 12:46 p.m.  
 Approved by: Stephanie Cole Date 2/15/01  
 Agency Alaska Court System

For distribution information, call the Governor's Legislative Office

## VIRGINIA

[summary | pdf](#)

## CHAPTER 659

An Act to amend and reenact §§ 18.2-374.1:1, 18.2-374.2, 18.2-374.3 and 19.2-298.1 of the Code of Virginia, relating to child pornography and indecent liberties with children; penalties; forfeiture.

[H 1760]

Approved March 28, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-374.1:1, 18.2-374.2, 18.2-374.3 and 19.2-298.1 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-374.1:1. Possession of child pornography; penalty.

A. Any person who knowingly possesses any sexually explicit visual material utilizing or having as a subject a person less than eighteen years of age shall be guilty of a Class ~~3~~1 misdemeanor. However, no prosecution for possession of material prohibited by this section shall lie where the prohibited material comes into the possession of the person charged from a law-enforcement officer or law-enforcement agency.

B. The provisions of this section shall not apply to any such material which is possessed for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial or other proper purpose by a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, ~~prosecutor~~ attorney, judge, or other person having a proper interest in the material.

C. All sexually explicit visual material which utilizes or has as a subject a person less than eighteen years of age shall be subject to lawful seizure and forfeiture pursuant to § 18.2-374.2.

D. Any person convicted of a second or subsequent offense under this section shall be guilty of a Class 6 felony.

§ 18.2-374.2. Seizure and forfeiture of property used in connection with production of sexually explicit items involving children.

All audio and visual equipment, electronic equipment, devices and other personal property used in connection with the production, *distribution, publication, sale, possession with intent to distribute* or making of sexually explicit visual material having a person less than eighteen years of age as a subject shall be subject to lawful seizure by a law-enforcement officer and shall be subject to forfeiture to the Commonwealth pursuant to Chapter 22 (§ 19.2-369 et seq.) of Title 19.2 by order of the court in which a conviction under § 18.2-374.1 is obtained. Notwithstanding the provisions of § 19.2-381, the court shall dispose of the forfeited property as it deems proper, including awarding the property to a state agency for lawful purposes. If the property is disposed of by sale, the court shall provide that the proceeds be paid into the Literary Fund.

A forfeiture under this section shall not extinguish the rights of any person without knowledge of the illegal use of the property who (i) is the lawful owner or (ii) has a valid and perfected lien on the

property.

§ 18.2-374.3. Use of communications systems to facilitate certain offenses involving children.

A. It shall be unlawful for any person to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means for the purposes of *procuring or promoting* the use of a minor for any activity in violation of § 18.2-370 or § 18.2-374.1. A violation of this section shall be punishable as a Class 6 felony.

B. *It shall be unlawful for any person over the age of eighteen to use a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting any person he knows or has reason to believe is a minor for (i) any activity in violation of §§ 18.2-355, 18.2-358, 18.2-361 or § 18.2-370, (ii) any activity in violation of § 18.2-374.1, or (iii) a violation of § 18.2-374.1:1. As used in this subsection, "use a communications system" means making personal contact or direct contact through any agent or agency, any print medium, the United States mail, any common carrier or communication common carrier, any electronic communications system, or any telecommunications, wire, computer, or radio communications system. A violation of this section shall be punishable as a Class 5 felony.*

§ 19.2-298.1. Registration required of persons convicted of certain offenses.

A. For purposes of this section:

"Offense for which registration is required" means a violation or attempted violation of:

1. §§ 18.2-63, 18.2-64.1, 18.2-67.2:1, subdivision A 2 of § 18.2-67.3, subsection B of § 18.2-67.5, § 18.2-90 with the intent to commit rape, §§ 18.2-370, 18.2-370.1, 18.2-374.1 or subsection D of § 18.2-374.1:1;

2. A "sexually violent offense"; or

3. Where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, a violation or attempted violation of subsection A of § 18.2-47, clause (iii) of § 18.2-48, subsection B of § 18.2-361 or subsection B of § 18.2-366, or subdivision B 1 of § 18.2-374.1.

"Sexually violent offense" means a violation or attempted violation of:

1. Clause (ii) of § 18.2-48, §§ 18.2-61, 18.2-67.1, 18.2-67.2, subdivision A 1 of § 18.2-67.3 or subsection A of § 18.2-67.5; or

2. §§ 18.2-63, 18.2-64.1, 18.2-67.2:1, subdivision A 2 of § 18.2-67.3, subsection B of § 18.2-67.5, § 18.2-90 with the intent to commit rape, §§ 18.2-370, 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, a violation or attempted violation of subsection A of § 18.2-47, clause (iii) of § 18.2-48, subsection B of § 18.2-361, subsection B of § 18.2-366, or subdivision B 1 of § 18.2-374.1. Conviction of an offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted of any two or more such offenses occurring within a ten-year period, provided that person had been at liberty between such convictions.

B. Every person convicted on or after July 1, 1997, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269, whether sentenced as adults or juveniles, of an offense for which registration is required shall be required as a part of the sentence imposed upon conviction to register and reregister with the Department of State Police as provided in this section. The court shall remand the person to the custody of the local law-enforcement agency of the county or city for the purpose of obtaining the person's fingerprints and photographs of a type and kind specified by the Department of State Police for inclusion in the Sex Offender and Crimes Against Minors Registry established pursuant to § 19.2-390.1. The court shall order the person to provide to the local law-enforcement agency all information required by the State Police for inclusion in the Registry.

It shall be the duty of the local law-enforcement agency to forward to the State Police all the necessary registration information within seven days of the date of sentencing and to promptly provide to the State Police such information as is necessary for any reregistration.

C. Every person serving a sentence of confinement or under community supervision on July 1, 1997, for an offense for which registration is required shall be required to register with the Department of State Police and shall be given notice of the duty to register pursuant to § 53.1-116.1 or § 53.1-160.1 as appropriate.

D. Every person required to register shall register within ten days of his release from confinement in a state, local or juvenile correctional facility or, if a sentence of confinement is not imposed, within ten days of suspension of the sentence or in the case of a juvenile, of disposition. In addition, all persons convicted of violations under the laws of the United States or any other state substantially similar to an offense for which registration is required shall obtain from the local law-enforcement agency of the jurisdiction in which he has established residence two sets of fingerprints and two photographs of a type and kind specified by the State Police for inclusion in the Registry and shall provide to the local agency all necessary information for inclusion in the Registry within ten days of establishing a residence within the Commonwealth. The local law-enforcement agency shall advise the person of his duties regarding reregistration. Any person required to register shall also be required to reregister within ten days following any change of residence, whether within or without the Commonwealth. Whenever a person subject to registration changes residence to another state, the State Police shall notify the designated law-enforcement agency of that state.

The local law-enforcement agency shall promptly submit to the State Police all necessary information for registrations and reregistrations pursuant to this subsection.

E. The registration shall be maintained in the Registry established pursuant to § 19.2-390.1 and shall include the person's name, all aliases which he has used or under which he may have been known, the date and locality of the conviction for which registration is required, his fingerprints and a photograph of a type and kind specified by the State Police, his date of birth, social security number, current address and a description of the offense or offenses for which he was convicted and shall, if applicable, provide the same information on convictions prior to July 1, 1997, for any of the specified offenses or under a substantially similar law of the United States or any other state.

F. Every person required to register under this section, other than a person convicted of a sexually violent offense but including persons required to register prior to July 1, 1997, shall reregister with the State Police on an annual basis from the date of the initial registration. Every person convicted of a sexually violent offense, including persons convicted of a sexually violent offense who were

required to register prior to July 1, 1997, shall reregister with the State Police every ninety days from the date of initial registration. For purposes of this section, reregistration means that the person has notified the State Police, confirmed his then current address and provided such other information, including identifying information, which the State Police may, pursuant to this section and by regulation, require. Upon registration and as may be necessary thereafter, the State Police shall provide the person with an address verification form to be used for reregistration. The form shall contain in bold print a statement indicating that failure to comply with the registration required is punishable as a Class 1 misdemeanor or a Class 6 felony as provided in § 18.2-472.1.

Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister, the State Police shall promptly cause a warrant for the arrest of the person to be issued by the jurisdiction in which the offender last registered or reregistered or, if the offender failed to comply with the duty to register, in the jurisdiction in which the offender was last convicted of an offense for which registration or reregistration is required. The State Police shall also promptly notify the local law-enforcement agency of the jurisdiction of the offender's last known residence as shown in the records of the State Police.

Jurisdiction for prosecution of a violation of this section shall lie where the offender last registered or reregistered or, if the offender failed to comply with the duty to register, where the offender was last convicted of an offense for which registration or reregistration is required.

2. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0.



Go to ([General Assembly Home](#))

CALIFORNIA CODES  
PENAL CODE  
SECTION 311-312.7

311. As used in this chapter, the following definitions apply:

(a) "Obscene matter" means matter, taken as a whole, that to the average person, applying contemporary statewide standards, appeals to the prurient interest, that, taken as a whole, depicts or describes sexual conduct in a patently offensive way, and that, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(1) If it appears from the nature of the matter or the circumstances of its dissemination, distribution, or exhibition that it is designed for clearly defined deviant sexual groups, the appeal of the matter shall be judged with reference to its intended recipient group.

(2) In prosecutions under this chapter, if circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that matter is being commercially exploited by the defendant for the sake of its prurient appeal, this evidence is probative with respect to the nature of the matter and may justify the conclusion that the matter lacks serious literary, artistic, political, or scientific value.

(3) In determining whether the matter taken as a whole lacks serious literary, artistic, political, or scientific value in description or representation of those matters, the fact that the defendant knew that the matter depicts persons under the age of 16 years engaged in sexual conduct, as defined in subdivision (c) of Section 311.4, is a factor that may be considered in making that determination.

(b) "Matter" means any book, magazine, newspaper, or other printed or written material, or any picture, drawing, photograph, motion picture, or other pictorial representation, or any statue or other figure, or any recording, transcription, or mechanical, chemical, or electrical reproduction, or any other article, equipment, machine, or material. "Matter" also means live or recorded telephone messages if transmitted, disseminated, or distributed as part of a commercial transaction.

(c) "Person" means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity.

(d) "Distribute" means transfer possession of, whether with or without consideration.

(e) "Knowingly" means being aware of the character of the matter or live conduct.

(f) "Exhibit" means show.

(g) "Obscene live conduct" means any physical human body activity, whether performed or engaged in alone or with other persons, including but not limited to singing, speaking, dancing, acting, simulating, or pantomiming, taken as a whole, that to the average person, applying contemporary statewide standards, appeals to the prurient interest and is conduct that, taken as a whole, depicts or describes sexual conduct in a patently offensive way and that, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(1) If it appears from the nature of the conduct or the circumstances of its production, presentation, or exhibition that it is designed for clearly defined deviant sexual groups, the appeal of

the conduct shall be judged with reference to its intended recipient group.

(2) In prosecutions under this chapter, if circumstances of production, presentation, advertising, or exhibition indicate that live conduct is being commercially exploited by the defendant for the sake of its prurient appeal, that evidence is probative with respect to the nature of the conduct and may justify the conclusion that the conduct lacks serious literary, artistic, political, or scientific value.

(3) In determining whether the live conduct taken as a whole lacks serious literary, artistic, political, or scientific value in description or representation of those matters, the fact that the defendant knew that the live conduct depicts persons under the age of 16 years engaged in sexual conduct, as defined in subdivision (c) of Section 311.4, is a factor that may be considered in making that determination.

(h) The Legislature expresses its approval of the holding of *People v. Cantrell*, 7 Cal. App. 4th 523, that, for the purposes of this chapter, matter that "depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct" is limited to visual works that depict that conduct.

311.1. (a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, with intent to distribute or to exhibit to, or to exchange with, others, or who offers to distribute, distributes, or exhibits to, or exchanges with, others, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, shall be punished either by imprisonment in the county jail for up to one year, by a fine not to exceed one thousand dollars (\$1,000), or by both the fine and imprisonment, or by imprisonment in the state prison, by a fine not to exceed ten thousand dollars (\$10,000), or by the fine and imprisonment.

(b) This section does not apply to the activities of law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(c) This section does not apply to matter which depicts a child under the age of 18, which child is legally emancipated, including lawful conduct between spouses when one or both are under the age of 18.

(d) It does not constitute a violation of this section for a telephone corporation, as defined by Section 234 of the Public Utilities Code, to carry or transmit messages described in this chapter or perform related activities in providing telephone services.

311.2. (a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, or prints, with intent to distribute or to exhibit to others, or who offers to distribute, distributes, or exhibits to others, any obscene matter is for a first offense, guilty of a misdemeanor. If the person has previously been convicted of any violation of this section, the court may, in addition to the punishment authorized in Section 311.9, impose a fine not exceeding fifty thousand dollars (\$50,000).

(b) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, with intent to distribute or to exhibit to, or to exchange with, others for commercial consideration, or who offers to distribute, distributes, or exhibits to, or exchanges with, others for commercial consideration, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony and shall be punished by imprisonment in the state prison for two, three, or six years, or by a fine not exceeding one hundred thousand dollars (\$100,000), in the absence of a finding that the defendant would be incapable of paying such a fine, or by both that fine and imprisonment.

(c) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, with intent to distribute or exhibit to, or to exchange with, a person 18 years of age or older, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person 18 years of age or older any matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision. If a person has been previously convicted of a violation of this subdivision, he or she is guilty of a felony.

(d) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, develops, duplicates, or prints any representation of

information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, with intent to distribute or exhibit to, or to exchange with, a person under 18 years of age, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person under 18 years of age any matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision.

(e) Subdivisions (a) to (d), inclusive, do not apply to the activities of law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses, to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(f) This section does not apply to matter that depicts a legally emancipated child under the age of 18 years or to lawful conduct between spouses when one or both are under the age of 18 years.

(g) It does not constitute a violation of this section for a telephone corporation, as defined by Section 234 of the Public Utilities Code, to carry or transmit messages described in this chapter or to perform related activities in providing telephone services.

311.3. (a) A person is guilty of sexual exploitation of a child if he or she knowingly develops, duplicates, prints, or exchanges any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip that depicts a person under the age of 18 years engaged in an act of sexual conduct.

(b) As used in this section, "sexual conduct" means any of the following:

- (1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.
- (2) Penetration of the vagina or rectum by any object.
- (3) Masturbation for the purpose of sexual stimulation of the viewer.
- (4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
- (5) Exhibition of the genitals or the pubic or rectal area of any person for the purpose of sexual stimulation of the viewer.
- (6) Defecation or urination for the purpose of sexual stimulation of the viewer.

(c) Subdivision (a) does not apply to the activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(d) Every person who violates subdivision (a) shall be punished by a fine of not more than two thousand dollars (\$2,000) or by

imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. If the person has been previously convicted of a violation of subdivision (a) or any section of this chapter, he or she shall be punished by imprisonment in the state prison.

(e) The provisions of this section do not apply to an employee of a commercial film developer who is acting within the scope of his or her employment and in accordance with the instructions of his or her employer, provided that the employee has no financial interest in the commercial developer by which he or she is employed.

(f) Subdivision (a) does not apply to matter that is unsolicited and is received without knowledge or consent through a facility, system, or network over which the person or entity has no control.

311.4. (a) Every person who, with knowledge that a person is a minor, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor, hires, employs, or uses the minor to do or assist in doing any of the acts described in Section 311.2, is, for a first offense, guilty of a misdemeanor. If the person has previously been convicted of any violation of this section, the court may, in addition to the punishment authorized in Section 311.9, impose a fine not exceeding fifty thousand dollars (\$50,000).

(b) Every person who, with knowledge that a person is a minor under the age of 18 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 18 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 18 years, or any parent or guardian of a minor under the age of 18 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, or a live performance involving, sexual conduct by a minor under the age of 18 years alone or with other persons or animals, for commercial purposes, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(c) Every person who, with knowledge that a person is a minor under the age of 18 years, or who, while in possession of any facts on the basis of which he or she should reasonably know that the person is a minor under the age of 18 years, knowingly promotes, employs, uses, persuades, induces, or coerces a minor under the age of 18 years, or any parent or guardian of a minor under the age of 18 years under his or her control who knowingly permits the minor, to engage in or assist others to engage in either posing or modeling alone or with others for purposes of preparing any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film, filmstrip, or a live performance involving, sexual conduct by a minor under the age of 18 years alone or with

other persons or animals, is guilty of a felony. It is not necessary to prove commercial purposes in order to establish a violation of this subdivision.

(d) (1) As used in subdivisions (b) and (c), "sexual conduct" means any of the following, whether actual or simulated: sexual intercourse, oral copulation, anal intercourse, anal oral copulation, masturbation, bestiality, sexual sadism, sexual masochism, penetration of the vagina or rectum by any object in a lewd or lascivious manner, exhibition of the genitals or pubic or rectal area for the purpose of sexual stimulation of the viewer, any lewd or lascivious sexual act as defined in Section 288, or excretory functions performed in a lewd or lascivious manner, whether or not any of the above conduct is performed alone or between members of the same or opposite sex or between humans and animals. An act is simulated when it gives the appearance of being sexual conduct.

(2) As used in subdivisions (b) and (c), "matter" means any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, or any other computer-related equipment or computer-generated image that contains or incorporates in any manner, any film, filmstrip, photograph, negative, slide, photocopy, videotape, or video laser disc.

(e) This section does not apply to a legally emancipated minor or to lawful conduct between spouses if one or both are under the age of 18.

(f) In every prosecution under this section involving a minor under the age of 14 years at the time of the offense, the age of the victim shall be pled and proven for the purpose of the enhanced penalty provided in Section 647.6. Failure to plead and prove that the victim was under the age of 14 years at the time of the offense is not a bar to prosecution under this section if it is proven that the victim was under the age of 18 years at the time of the offense.

311.5. Every person who writes, creates, or solicits the publication or distribution of advertising or other promotional material, or who in any manner promotes, the sale, distribution, or exhibition of matter represented or held out by him to be obscene, is guilty of a misdemeanor.

311.6. Every person who knowingly engages or participates in, manages, produces, sponsors, presents or exhibits obscene live conduct to or before an assembly or audience consisting of at least one person or spectator in any public place or in any place exposed to public view, or in any place open to the public or to a segment thereof, whether or not an admission fee is charged, or whether or not attendance is conditioned upon the presentation of a membership card or other token, is guilty of a misdemeanor.

311.7. Every person who, knowingly, as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, publication or other merchandise, requires that the purchaser or consignee receive any obscene matter or who denies or threatens to deny a franchise, revokes or threatens to revoke, or imposes any penalty, financial or otherwise, by reason

of the failure of any person to accept obscene matter, or by reason of the return of such obscene matter, is guilty of a misdemeanor.

311.8. (a) It shall be a defense in any prosecution for a violation of this chapter that the act charged was committed in aid of legitimate scientific or educational purposes.

(b) It shall be a defense in any prosecution for a violation of this chapter by a person who knowingly distributed any obscene matter by the use of telephones or telephone facilities to any person under the age of 18 years that the defendant has taken either of the following measures to restrict access to the obscene matter by person under 18 years of age:

(1) Required the person receiving the obscene matter to use an authorized access or identification code, as provided by the information provider, before transmission of the obscene matter begins, where the defendant has previously issued the code by mailing it to the applicant therefor after taking reasonable measures to ascertain that the applicant was 18 years of age or older and has established a procedure to immediately cancel the code of any person after receiving notice, in writing or by telephone, that the code has been lost, stolen, or used by persons under the age of 18 years or that the code is no longer desired.

(2) Required payment by credit card before transmission of the matter.

(c) Any list of applicants or recipients compiled or maintained by an information-access service provider for purposes of compliance with subdivision (b) is confidential and shall not be sold or otherwise disseminated except upon order of the court.

311.9. (a) Every person who violates Section 311.2 or 311.5, except subdivision (b) of Section 311.2, is punishable by fine of not more than one thousand dollars (\$1,000) plus five dollars (\$5) for each additional unit of material coming within the provisions of this chapter, which is involved in the offense, not to exceed ten thousand dollars (\$10,000), or by imprisonment in the county jail for not more than six months plus one day for each additional unit of material coming within the provisions of this chapter, and which is involved in the offense, such basic maximum and additional days not to exceed 360 days in the county jail, or by both such fine and imprisonment. If such person has previously been convicted of any offense in this chapter, or of a violation of Section 313.1, a violation of Section 311.2 or 311.5, except subdivision (b) of Section 311.2, is punishable as a felony.

(b) Every person who violates Section 311.4 is punishable by fine of not more than two thousand dollars (\$2,000) or by imprisonment in the county jail for not more than one year, or by both such fine and such imprisonment. If such person has been previously convicted of a violation of former Section 311.3 or Section 311.4 he is punishable by imprisonment in the state prison.

(c) Every person who violates Section 311.7 is punishable by fine of not more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. For a second and subsequent offense he shall be punished by a fine of not more than two thousand dollars (\$2,000), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. If such person has been twice

convicted of a violation of this chapter, a violation of Section 311.7 is punishable as a felony.

311.10. (a) Any person who advertises for sale or distribution any obscene matter knowing that it depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony and is punishable by imprisonment in the state prison for two, three, or four years, or in a county jail not exceeding one year, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both such fine and imprisonment.

(b) Subdivision (a) shall not apply to the activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses.

311.11. (a) Every person who knowingly possesses or controls any matter, representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, the production of which involves the use of a person under the age of 18 years, knowing that the matter depicts a person under the age of 18 years personally engaging in or simulating sexual conduct, as defined in subdivision (d) of Section 311.4, is guilty of a public offense and shall be punished by imprisonment in the county jail for up to one year, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both the fine and imprisonment.

(b) If a person has been previously convicted of a violation of this section, he or she is guilty of a felony and shall be punished by imprisonment for two, four, or six years.

(c) It is not necessary to prove that the matter is obscene in order to establish a violation of this section.

(d) This section does not apply to drawings, figurines, statues, or any film rated by the Motion Picture Association of America, nor does it apply to live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction.

312. Upon the conviction of the accused, the court may, when the conviction becomes final, order any matter or advertisement, in respect whereof the accused stands convicted, and which remains in the possession or under the control of the district attorney or any law enforcement agency, to be destroyed, and the court may cause to be destroyed any such material in its possession or under its control.

312.1. In any prosecution for a violation of the provisions of this chapter or of Chapter 7.6 (commencing with Section 313), neither the prosecution nor the defense shall be required to introduce expert witness testimony concerning the obscene or harmful character of the matter or live conduct which is the subject of any the prosecution.



newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation, or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction, or any other articles, equipment, machines, or materials. "Matter" also means any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner any film or filmstrip.

(i) This section does not apply to a depiction of a legally emancipated minor or to lawful conduct between spouses if one or both are under the age of 18.

(j) It is a defense in any forfeiture proceeding that the matter seized was lawfully possessed in aid of legitimate scientific or educational purposes.

312.5. If any phrase, clause, sentence, section or provision of this chapter or application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other phrase, clause, sentence, section, provision or application of this chapter, which can be given effect without the invalid phrase, clause, sentence, section, provision or application and to this end the provisions of this chapter are declared to be severable.

312.6. (a) It does not constitute a violation of this chapter for a person or entity solely to provide access or connection to or from a facility, system, or network over which that person or entity has no control, including related capabilities that are incidental to providing access or connection. This subdivision does not apply to an individual or entity that is owned or controlled by, or a conspirator with, an entity actively involved in the creation, editing, or knowing distribution of communications that violate this chapter.

(b) An employer is not liable under this chapter for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his or her employment or agency and the employer has knowledge of, authorizes, or ratifies the employee's or agent's conduct.

(c) It is a defense to prosecution under this chapter and in any civil action that may be instituted based on a violation of this chapter that a person has taken reasonable, effective, and appropriate actions in good faith to restrict or prevent the transmission of, or access to, a communication specified in this chapter.

312.7. Nothing in this chapter shall be construed to apply to interstate services or to any other activities or actions for which states are prohibited from imposing liability pursuant to Paragraph (4) of subsection (g) of Section 223 of Title 47 of the United States Code.

**Michigan Compiled Laws: Complete Through PA 332 of 2000**

A free service provided by The Michigan Legislative Council, The Michigan House of Representatives and The Michigan Senate



Main Functions				

[Go to the first Full Text hit...](#)

**THE MICHIGAN PENAL CODE (EXCERPT)**

MCL Search		
←	results	→

**Act 328 of 1931**

MCL Documents		
←	sections	→
●	<a href="#">Index</a>	
↶	<a href="#">Chapter 750</a>	
↶	<a href="#">Act 328 of 1931</a>	
↶	<a href="#">chapter XX</a>	
→	<a href="#">750.145d</a>	

**750.145d Use of internet or computer system; prohibited communication; violation; penalty; order to reimburse state or local governmental unit; definitions.**

Sec. 145d. (1) A person shall not use the internet or a computer, computer program, computer network, or computer system to communicate with any person for the purpose of doing any of the following: (a) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 145a, 145c, 157c, 349, 350, 520b, 520c, 520d, 520e, or 520g, or section 5 of 1978 PA 33, MCL 722.675, in which the victim or intended victim is a minor or is believed by that person to be a minor.

(b) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under section 411h or 411i.

(c) Committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct proscribed under chapter XXXIII or section 327, 327a, 328, or 411a(2).

(2) A person who violates this section is guilty of a crime as follows: (a) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of less than 1 year, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$5,000.00, or both.

(b) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of 1 year or more but less than 2 years, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$5,000.00, or both.

(c) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of 2 years or more but less than 4 years, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both.

(d) If the underlying crime is a felony with a maximum term of imprisonment of 4 years or more but less than 10 years, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$5,000.00, or both.

(e) If the underlying crime is a felony punishable by a maximum term of imprisonment of 10 years or more but less than 15 years, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(f) If the underlying crime is a felony punishable by a maximum term of imprisonment of 15 years or more or for life, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$20,000.00, or both.

(3) The court may order that a term of imprisonment imposed under this section be served consecutively to any term of imprisonment imposed for conviction of the underlying offense.

(4) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating or attempting to violate this section, including the underlying offense.

(5) This section applies regardless of whether the person is convicted of committing, attempting to commit, conspiring to commit, or soliciting another person to commit the underlying offense.

(6) A violation or attempted violation of this section occurs if the communication originates in this state, is intended to terminate in this state, or is intended to terminate with a person who is in this state.

(7) A violation or attempted violation of this section may be prosecuted in any jurisdiction in which the communication originated or terminated.

(8) The court may order a person convicted of violating this section to reimburse this state or a local unit of government of this state for expenses incurred in relation to the violation in the same manner that expenses may be ordered to be reimbursed under section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

(9) As used in this section: (a) "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory



**Michigan Compiled Laws: Complete Through PA 332 of 2000**

A free service provided by The Michigan Legislative Council, The Michigan House of Representatives and The Michigan Senate



Main Functions				

[Go to the first Full Text hit...](#)

MCL Search		
←	results	→

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

**Act 236 of 1961**

MCL Documents		
←	sections	→
●	<a href="#">Index</a>	
↶	<a href="#">Chapter 600</a>	
↶	<a href="#">Act 236 of 1961</a>	
↶	<a href="#">chapter 47</a>	
➔	<a href="#">600.4701</a>	

**600.4701 Definitions.**

Sec. 4701. As used in this chapter: (a) "Crime" means committing, attempting to commit, conspiring to commit, or soliciting another person to commit any of the following offenses in connection with which the forfeiture of property is sought: (i) A violation of part 111 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11152.

(ii) A violation of part 121 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.12101 to 324.12117.

(iii) A violation of section 4, 5, or 7 of the medicaid false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607.

(iv) A violation of section 2 or 3 of the Michigan antitrust reform act, 1984 PA 274, MCL 445.772 and 445.773.

(v) A violation described in section 409 of the uniform securities act, 1964 PA 265, MCL 451.809.

(vi) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675 and 722.677.

(vii) A violation of section 49, 75, 94, 95, 96, 100, 104, 105, 106, 110, 112, 117, 118, 119, 120, 121, 124, 145c, 145d, 157q, 157r, 174, 175, 176, 180, 181, 182, 213, 214, 218, 219a, 224, 248, 249, 250, 251, 252, 253, 254, 255, 263, 264, 271, 272, 273, 274, 300, 356, 357, 357a, 359, 360, 529, 530, 531, 535, 540c, or 540g of the Michigan penal code, 1931 PA 328, MCL 750.49, 750.75, 750.94, 750.95, 750.96, 750.100, 750.104, 750.105, 750.106, 750.110, 750.112, 750.117, 750.118, 750.119, 750.120, 750.121, 750.124, 750.145c, 750.145d, 750.157q, 750.157r, 750.174, 750.175, 750.176, 750.180, 750.181, 750.182, 750.213, 750.214, 750.218, 750.219a, 750.224, 750.248, 750.249, 750.250, 750.251, 750.252, 750.253, 750.254, 750.255, 750.263, 750.264, 750.271, 750.272, 750.273, 750.274, 750.300, 750.356, 750.357, 750.357a, 750.359, 750.360, 750.529, 750.530, 750.531, 750.535, 750.540c, and 750.540g.