

JAN 19 2018

S.B. NO. 2403

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# A BILL FOR AN ACT

RELATING TO HOME INSPECTORS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4                               **"CHAPTER**

5                               **HOME INSPECTORS**

6       §   -1 **Definitions.** As used in this chapter:

7       "Board" means the board of home inspectors established by  
8 this chapter.

9       "Department" means the department of commerce and consumer  
10 affairs.

11       "Director" means the director of commerce and consumer  
12 affairs.

13       "Home inspection" means a written evaluation of two or more  
14 of the following major components of a residential or commercial  
15 building: roof, exterior components, grounds, foundation,  
16 structure, plumbing system, electrical system, heating system,



1 cooling system, interior components, insulation and ventilation,  
2 and major appliances.

3 "Home inspector" means an individual who advertises, bids  
4 on, or performs a home inspection.

5 § -2 **License required.** (a) Except as otherwise  
6 provided in this chapter, it shall be unlawful to represent  
7 one's self as a home inspector, use the title "licensed home  
8 inspector", or engage in home inspections without having first  
9 obtained a license as provided in this chapter.

10 (b) Any person who violates this section shall be subject  
11 to a fine of not more than \$1,000 for each separate offense.  
12 Each day of each violation shall constitute a separate offense.

13 § -3 **Exemptions.** (a) This chapter shall not apply to  
14 any business or individual who:

- 15 (1) Inspects only one system or component, for the purpose  
16 of repair or revision to that system or component;  
17 (2) Is employed by a government entity and performs  
18 inspections for the purposes of code compliance;  
19 (3) Acts as a licensed pest control operator or is engaged  
20 in the business of pest control pursuant to chapter  
21 460J; provided that such business or individual shall



not conduct a home inspection for a real estate  
purchase or sale;

(4) Inspects only for lead-based paint or other  
environmental hazards;

(5) Tests only the air for radon;

(6) Performs only mold inspections;

(7) Performs only home energy audits;

(8) Performs only forensic building evaluations; or

(9) Performs only home performance testing, such as  
building envelope evaluations or heating, ventilation,  
or air conditioning testing.

(b) Individuals licensed as general contractors pursuant  
to chapter 444, architects pursuant to chapter 464, or  
professional engineers pursuant to chapter 464 shall not be  
exempt from the licensing requirements of this chapter, if these  
individuals offer to perform home inspections or conduct  
activities that otherwise would require licensure under this  
chapter.

§ -4 Board of home inspectors; establishment,  
appointment, membership. (a) There is established within the



1 department for administrative purposes the board of home  
2 inspectors. The board shall consist of nine members.

3 (b) Of the members:

4 (1) Three shall be home inspectors who have been engaged  
5 in home inspections for a period of five years  
6 preceding their several appointments;

7 (2) Two shall be home inspectors who have been engaged in  
8 home inspections for a period of ten years preceding  
9 their several appointments;

10 (3) One shall be a real estate broker duly licensed in  
11 accordance with chapter 467; and

12 (4) Three shall be public members.

13 (c) Each member shall have been a resident of the State  
14 for at least three years. Each county shall be represented by  
15 at least one member who is a resident of the county. Of the  
16 home inspector members, no two members of the board may be  
17 employed by, or affiliated with, the same home inspection  
18 company.

19 (d) The governor may appoint and fill each vacancy on the  
20 board pursuant to section 26-34.



1       §   -5   **Powers and duties of board.**   In addition to any  
2   other powers and duties authorized by law, the board shall have  
3   the powers and duties to:

4       (1)   Grant, deny, renew, refuse to renew, restore,  
5             terminate, reinstate, condition, restrict, suspend, or  
6             revoke a license issued pursuant to this chapter;

7       (2)   Grant permission to a person to perform home  
8             inspecting and to use the title of "licensed home  
9             inspector" or a description indicating that the person  
10            is a licensed home inspector in the State;

11      (3)   Adopt, amend, or repeal rules pursuant to chapter 91  
12             as the board finds necessary to carry out this  
13             chapter;

14      (4)   Administer, coordinate, and enforce this chapter;

15      (5)   Discipline a licensed home inspector on grounds  
16             specified by this chapter or chapter 436B or for any  
17             violation of rules adopted by the board pursuant to  
18             this chapter;

19      (6)   Adopt standards of practice for all licensed home  
20             inspectors in the State; and

21      (7)   Adopt a code of ethics for all licensees.



1           §    -6   **Qualifications for licensure.**   Application for  
2   licensure as a home inspector shall be made on an application in  
3   a form prescribed by the board.  An applicant shall submit  
4   evidence satisfactory to the board that the applicant meets the  
5   following requirements:

6           (1)   Successful passage of:

7                   (A)   The National Home Inspector Examination; or

8                   (B)   The Hawaii Association of Home Inspectors

9                         Certified Inspector Examination;

10          (2)   Successful completion of at least two supervised  
11               single-family home inspections and at least two  
12               supervised condominium home inspections; provided that  
13               the board shall adopt requirements for the supervision  
14               and review of the home inspections under this  
15               paragraph by rule;

16          (3)   Additional work experience in fields related to home  
17               inspection, to be determined pursuant to rules adopted  
18               by the board;

19          (4)   Educational requirements, to be determined pursuant to  
20               rules adopted by the board; and



(5) Any additional information as may be prescribed or required by the board.

§ -7 **Renewals; fees; continuing education.** (a) Every license issued under this chapter shall be renewed biennially on or before June 30 of each odd-numbered year. Failure to renew a license shall result in forfeiture of the license; provided that a home inspector whose license has been forfeited for one year or less for failure to renew may restore the license by payment of the renewal fee and, in the case of a home inspector who is audited, pursuant to subsection (g), submission of documentation of continuing education compliance, for the biennium in which the failure occurred. If licensing has lapsed for more than one year, the person may reapply for a license in the manner prescribed in this chapter.

(b) Upon written request of a licensee, the board may place that person's active license in an inactive status. The licensee, upon payment of the inactive license fee, may continue inactive for the biennial period. Failure, neglect, or refusal of any licensee in inactive status to pay the inactive license fee shall constitute a forfeiture of the license. The license may be reactivated at any time by making a written request to



1 the board and by fulfilling the requirements established by the  
2 board, including the payment of the appropriate fees. During  
3 the inactive period, a licensee on inactive status shall not  
4 engage in the practice of home inspecting that would require a  
5 license. Any person who violates this prohibition shall be  
6 subject to discipline under this chapter and the board's rules.  
7 The inactive status of any licensee shall not deprive the board  
8 of its authority to institute or continue any disciplinary or  
9 enforcement action against the licensee.

10 (c) As a condition of license renewal, the board shall  
11 require thirty hours of continuing education during each  
12 licensing biennium, effective as of the renewal date for a  
13 license expiring on June 30, 2021, and for every biennial  
14 renewal period thereafter. The board shall set content and  
15 other requirements for continuing education courses, providers,  
16 and instructors by rule.

17 (d) First-time licensees shall not be subject to the  
18 continuing education requirement established under subsection  
19 (c) for the first license renewal.

20 (e) Each licensee shall be responsible for maintaining the  
21 licensee's continuing education records. At the time of





1 renewal, each licensee shall certify under oath that the  
2 licensee has complied with the continuing education requirement  
3 of this section. The board may require a licensee to submit  
4 evidence satisfactory to the board that demonstrates compliance  
5 with the continuing education requirement.

6 (f) Any licensee seeking renewal of a license without full  
7 compliance with the continuing education requirement shall  
8 submit with the renewal application the required fee, a  
9 notarized affidavit setting forth the facts explaining the  
10 reasons for noncompliance, and a request for an extension on the  
11 basis of the facts; provided that the licensee shall complete at  
12 least thirty hours of continuing education for the next  
13 licensing biennium. The board shall consider each case on an  
14 individual basis and may grant an extension pursuant to board  
15 rules.

16 (g) The board may conduct random audits of licensees to  
17 determine compliance with the continuing education requirement.  
18 The board shall provide written notice of an audit to a licensee  
19 randomly selected for audit. Within sixty days of notification,  
20 the licensee shall provide the board with documentation



1 verifying compliance with the continuing education requirement  
2 established by this section.

3       §   -8   **Fees; disposition.** Application, examination,  
4 license, renewal, and temporary permit fees required by this  
5 chapter, none of which are refundable, shall be as provided in  
6 rules adopted by the director pursuant to chapter 91.

7       §   -9   **Grounds for refusal to renew, reinstate, or restore**  
8 **and for revocation, suspension, denial, or conditioning of**  
9 **licenses.** (a) In addition to any other acts or conditions  
10 provided by law, the board may refuse to renew, reinstate, or  
11 restore, or may deny, revoke, suspend, or condition in any  
12 manner, any license for any one or more of the following acts or  
13 conditions on the part of the licensee or the applicant thereof:

14       (1) Failing to meet or maintain the conditions and  
15 requirements necessary to qualify for the granting of  
16 a license;

17       (2) Engaging in false, fraudulent, or deceptive  
18 advertising, or making untruthful or improbable  
19 statements;

20       (3) Engaging in home inspecting while impaired by alcohol,  
21 drugs, physical disability, or mental instability;



(4) Procuring a license through fraud, misrepresentation,  
or deceit;

(5) Aiding and abetting an unlicensed person to directly  
or indirectly perform activities requiring a license  
as a home inspector;

(6) Engaging in professional misconduct, incompetence,  
gross negligence, or manifest incapacity while  
practicing as a home inspector;

(7) Failing to maintain a record or history of competency,  
trustworthiness, fair dealing, and financial  
integrity;

(8) Engaging in conduct or practice contrary to recognized  
standards of ethics for home inspectors;

(9) Violating any condition or limitation imposed by the  
director on a licensee as a home inspector;

(10) Engaging in home inspecting in a manner causing injury  
to one or more members of the public;

(11) Failing to comply with, observe, or adhere to any law  
in a manner that causes the board to determine the  
applicant or licensee to be an unfit or improper  
person to hold a license;



1       (12) Having a license or certification as a home inspector  
2           revoked or suspended or other disciplinary action  
3           taken by another state or federal agency against a  
4           licensee or applicant for any reason provided by the  
5           applicable licensing laws or this section;

6       (13) Having been convicted or pleaded nolo contendere to a  
7           crime directly related to the qualifications,  
8           functions, or duties of licensed home inspectors;

9       (14) Failing to report in writing to the board any  
10          disciplinary decision issued against the licensee or  
11          the applicant in another jurisdiction within thirty  
12          days of the disciplinary decision;

13      (15) Employing, utilizing, or attempting to employ or  
14          utilize at any time any person not licensed under this  
15          chapter where licensure is required; or

16      (16) Violating this chapter, chapter 436B, any rule or  
17          order of the director, or any rule of the board.

18      (b) Any licensee or applicant who violates this section  
19      may also be fined not more than \$1,000 per violation."  
20



1 SECTION 2. This Act shall take effect on July 1, 2019.

2

INTRODUCED BY: Will Guerrero  
Breene Hunt



# S.B. NO. 2403

**Report Title:**

Home Inspectors; Licensure; Requirements; Board of Home Inspectors; Establishment

**Description:**

Requires licensure for home inspectors in the State.  
Establishes the board of home inspectors.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

