

RULE IMPACT STATEMENT

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 70. HOME INSPECTION INDUSTRY REGULATIONS

1. **BRIEF DESCRIPTION OF PURPOSE OF PROPOSED RULE:** The purpose of the proposed amendments to 158:70-1-2 is to provide the public a description of terms as the statutes have historically been applied by the agency. The amendments to 158:70-9-2 are for the purpose of amending procedures/requirements related to an applicant who violates exam procedures. The amendments to 158:70-9-3 establish a deadline for submission of applications for continuing education course approval; clarify that only applications for approval of online or correspondence courses have to be resubmitted annually, from date of approval, for review and approval; and clarify the manner in which continuing education courses must be conducted. The amendments to 158:70-9-5 allow a designee of the Home Inspector Examiners Committee to consider an unsigned or anonymous complaint regarding continuing education for further investigation, and allow a designee of the committee to make a determination regarding an anonymous complaint.
2. **DESCRIPTION OF THE CLASSES OF PERSONS AFFECTED:** The agency, members of the home inspection industry and the public who are involved in or wish to be involved in the home inspection industry licensed and regulated by the Construction Industries Board ("CIB"), continuing education providers, individuals filing a complaint regarding a continuing education course, and citizens of Oklahoma.
3. **CLASSES OF PERSONS BENEFITTED:** The agency, members of the home inspection industry and members of the public who are involved in or wish to be involved in the home inspection industry licensed and regulated by the Construction Industries Board ("CIB"), continuing education providers, individuals filing a complaint regarding a continuing education course, and citizens of Oklahoma.
4. **ECONOMIC IMPACT UPON AFFECTED CLASSES OF PERSONS:** There are no new fees established by the proposed rules or additional fees expected. There is already an existing fee for approval of education course content. The requirement that applications for approval of online or correspondence courses be resubmitted annually would only result in a fee being assessed if there is a change in the course content from the course previously approved which currently requires application with fee.
5. **COSTS AND BENEFITS TO THE AGENCY:** It is not anticipated that there would be a cost to the agency related to the proposed amendments. The benefit to the agency is to have clear, unambiguous rules. The deadline for submission of applications for continuing education benefits the agency by allowing time for staff to review the applications and prepare them for consideration by the Home Inspector Examiners Committee in a timely manner.
6. **ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** No economic impact on any political subdivision is anticipated by the proposed rules.

7. **ECONOMIC IMPACT ON SMALL BUSINESS:** The economic impact on small business is not measurable.
8. **MEASURES TAKEN TO MINIMIZE COMPLIANCE COSTS:** The proposed rule changes are the least costly or least intrusive method of achieving the purpose of the proposed rules. There are no non-regulatory methods for achieving the purpose of the proposed rule changes.
9. **EFFECT OF THE PROPOSED RULE ON PUBLIC HEALTH:** There is no anticipated effect of the proposed rules on public health.
10. **DETRIMENTS TO PUBLIC HEALTH IF THE RULE IS NOT ADOPTED:** There are no known detriments to public health if the rule is not adopted.
11. **DATE IMPACT STATEMENT PREPARED:** December 6, 2016.

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 70. HOME INSPECTION INDUSTRY REGULATIONS**

SUBCHAPTER 1. GENERAL PROVISIONS

158:70-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Home Inspection Licensing Act, found at 59 O.S. § 858-621, *et seq.*

"Alarm systems" means warning devices, installed or free-standing, including but not limited to: carbon monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps and smoke alarms.

"Applicant" means any person applying for an examination for a license or registration, or for continuing education approval, under the Act.

"Architectural service" means any practice involving the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structures or the design for construction, including but not specifically limited to, schematic design, design development, preparation of construction contract documents, and administration of the construction contract.

"Board" means the Construction Industries Board.

"Certificates of course completion" means a document acceptable to the Committee which signifies satisfactory completion of course work and reflects the hours of credit earned.

"Cheating" means any unapproved deviation from any official instruction given before, during or after a home inspector license examination for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"Classroom hour", "credit hour", and "clock hour" ~~are each equal to~~ means at least fifty (50) minutes out of each sixty (60) minute segment of classroom instruction with a ten (10) minute break.

"Client" means a person with a direct material interest in the outcome of a home inspection who hires and compensates a home inspector for the performance of a home inspection.

"Committee" means the Committee of Home Inspector Examiners established by the Home Inspection Licensing Act, 59 O.S. § 858-624.

"Component" means a part of a system.

"Continuing education" and "CE" means education that is approved by the Committee to satisfy education requirements in order to renew licensure as a home inspector.

"Continuing education verification form" means a form acceptable to the Committee and completed by the course provider, that documents compliance with the continuing education requirements.

"Cosmetic" means a condition that affects appearance but not the manner in which the system or component functions.

"Decorative" means ornamental; not required for the operation of the essential systems and components of a home.

"Defect" means a condition, malfunction or problem, which is not decorative or cosmetic, that would have a materially adverse effect on the value of a system or component, or would impair the health or safety of the occupants or client.

"Describe" means to report a system or component by its type or other observed, significant characteristics to distinguish it from other systems or components.

"Dismantle" means to take apart or remove any component, device or piece of equipment that would not be taken apart or removed by a homeowner in the course of normal and routine homeowner maintenance.

"Engineering service" means any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional service or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with the specifications and design, in conjunction with structures, buildings, machines, equipment, works or processes.

"Further evaluation" means examination and analysis by a qualified professional, tradesman or service technician beyond that provided by the home inspection.

"Home" or "residence" means any dwelling, from one to four (1-4) units in design, intended principally for residential purposes by one (1) or more individuals.

"Home inspection" or "inspection" means a visual examination of any or all of the readily accessible physical real property and improvements to real property consisting of four or fewer dwelling units, including structural, lot drainage, roof, electrical, plumbing, heating and air conditioning and such other areas of concern as are specified in writing to determine if performance is as intended. [59 O.S. § 858-622(3)]

"Home inspection license unit" means the staff and administrative support unit to the Committee of Home Inspector Examiners.

"Home inspection report" means a written opinion of the functional and physical condition of property written by the licensed home inspector pursuant to home inspection.

"Home Inspection Training" means prelicense education that is approved by the Committee to satisfy the education requirements to qualify an applicant to take a home inspector examination for licensure as a home inspector.

"Home inspector" means an individual licensed pursuant to the Home Inspection Licensing Act who, for compensation, conducts home inspections.

"Inspect" means to examine readily accessible systems and components of a building in accordance with these Standards of Practice, using normal operating controls and opening readily openable access panels.

"Installed" means attached such that removal requires tools.

"Instructor" means a person who presents course materials approved for qualifying education and continuing education credit hours that has the experience, training, and/or education in the course subject matter and has been approved by the Committee.

"Normal working order" means the system or component functions without defect for the primary purpose and manner for which it was designed.

"Normal operating controls" means devices such as thermostats, switches or valves intended to be operated by the homeowner.

"Practice of Architecture" means that practice defined in 59 O.S. § 46.3(2) and exempt from the Home Inspection Licensing Act under 59 O.S. § 858-623(B).

"Professional craftsman" means a person who can demonstrate by certification, education or experience, specialized skill in the construction or repair of homes, duplexes, apartment buildings or similar structures. Persons demonstrating specialized skill by experience

alone must be able to show that they have been actively engaged in their profession, trade or craft for at least one (1) year prior to the performance of a single item inspection.

"Provider" means a person, corporation, professional association or its local affiliates, or any other entity, which is approved by the Committee and provides approved home inspection training or continuing education to home inspectors.

"Readily accessible" means available for visual inspection without requiring moving of personal property, dismantling, destructive measures, or any action which will likely involve risk to persons or property.

"Readily openable access panel" means a panel provided for homeowner inspection and maintenance that is within normal reach, can be removed by one person, and is not sealed in place.

"Reciprocity agreement" means an agreement whereby a home inspector who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Recreational facilities" means spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic, playground or other similar equipment and associated accessories.

"Report" means to communicate in writing.

"Roof drainage systems" means components used to carry water off a roof and away from a building.

"Shut down" means a state in which a system or component cannot be operated by normal operating controls.

"Solid fuel burning appliances" means a hearth and fire chamber or similar prepared place in which a fire may be built and which is built in conjunction with a chimney; or a listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction.

"Structural component" means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).

"System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.

"Technically exhaustive" means an investigation that involves dismantling, the extensive use of advanced techniques, measurements, instruments, testing, calculations, or other means.

"Under-floor crawl space" means the area within the confines of the foundation and between the ground and the underside of the floor.

"Unsafe" means a condition in a readily accessible, installed system or component which is judged to be a significant risk of personal injury during normal operation. The risk may be due to damage, deterioration, improper installation or a change in accepted residential construction standards.

"Wiring methods" means identification of electrical conductors or wires by their general type, such as "non-metallic sheathed cable" ("Romex"), "armored cable" ("bx") or "knob and tube", etc.

SUBCHAPTER 9. EXAMINATION APPLICATIONS, EXAMINATIONS, COURSE APPROVAL REQUIREMENTS, INSTRUCTOR REQUIREMENTS, CONTINUING EDUCATION, DENIED APPLICATION APPEAL, SUBMISSION OF RECORDS, SUBSTANTIAL COMPLIANCE AND RECIPROCITY

158:70-9-2. Examinations

- (a) Home inspection license examinations may include, without limitation, written questions, consisting of open book, closed book and problems, based on current national standards, and other related questions.
- (b) The maximum grade value of each part of the examination shall be 100 points. A passing score is 70% or more on each part.
- (c) Each applicant shall pay the examination fee before undertaking any examination. Reexamination fees shall be the same as the initial examination fees.
- (d) Unless authorized by the Committee, only examinees shall be permitted in the examination area.
- (e) Applicants shall present positive identification before undertaking an examination.
- (f) Any applicant who fails an examination must wait thirty (30) days before retaking the home inspection examination.
- (g) ~~An examinee cheating or fraudulently representing an applicant shall immediately be expelled from the examination. A written record of the proceedings shall be made and become a part of the applicant's file. The Committee shall determine when the applicant may retake the exam, which time shall be no fewer than three hundred sixty five (365) days. Any applicant who violates exam procedures as determined by the examination provider, including but not limited to cheating, misrepresenting oneself as another, or inappropriate actions during an examination may be immediately notified and expelled from the examination. Furthermore, the applicant's exam will be considered invalid and the applicant will be disqualified from retaking the exam for a period of time no less than 30 days and no more than 365 days as determined by the Administrator of the Construction Industries Board.~~

158:70-9-3. Course approval requirements

- (a) Any person or entity seeking to conduct an approved course for home inspection training or continuing education credits shall make application and submit documents, statements and forms as may reasonably be required by the Committee in accordance with OAC 158:70-5-2, at least fifteen (15) days prior to the date of the Regular meeting of the Committee from which the person or entity wants the course to be considered for approval, and at least thirty (30) days prior to the date for which the course is scheduled.
- (b) Applications shall include the following information:
 - (1) Name and address of the provider;
 - (2) Contact person and his or her address, telephone number and fax number;
 - (3) The location of the courses or programs;
 - (4) The number and type of education credit hours requested for each course;
 - (5) Topic outlines, which list the summarized topics, covered in each course and upon request a copy of any course materials;
 - (6) If a prior approved course has substantially changed, a summarization of these records;
 - (7) The names and qualifications of each instructor who is qualified in accordance with OAC 158:70-9-4;
 - (8) Information demonstrating the proposed home inspection training program meets the education standards for licensing; and,

- (9) Information demonstrating the proposed continuing education course meets the standard provided in OAC 158:70-9-5(b).
- (c) The Board may automatically accept without further review, courses pre-approved by the Committee.
- (d) The Committee may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.
- (e) No person or entity sponsoring or conducting a course shall advertise that it is endorsed, recommended, or accredited by the Committee. All advertising must include the course ID number and the number of hours of CE credit approved by the Committee, except for advertising that refers or links to a website that displays the required information including the course ID in the website material that advertises or refers to the home inspection class.
- (f) The Committee may decline to renew, or revoke the approval of any qualifying course or any instructor or entity previously approved to conduct a home inspection training course upon a showing or demonstration that the course, instructor or entity has substantially failed to adequately prepare its attendees or participants to pass the national Home Inspection Examination or similar qualifying examination.
- (g) Each course is to be submitted on a separate application for each date, or dates, that constitute a single course.
- (h) Applications for approval of online or correspondence courses shall be resubmitted annually, from date of approval, for review and approval.
- (i) The course, including the named advertised participants, must be conducted substantially as approved, including lunch and breaks shown on the approved agenda, subject to emergency withdrawals and alterations.

158:70-9-5. Continuing education

- (a) **Continuing education hours.** No home inspection license shall be renewed unless the licensee has completed at least eight (8) credit hours, consisting of no more than two (2) hours of Ancillary Systems topics per year, of continuing education prior to the date of renewal.
- (b) **Special approval requirements for continuing education.** All continuing education providers shall abide by the following requirements:
- (1) Course content should be designed to update knowledge and improve inspection skills directly related to the components and systems described in Subchapter 1 of this Chapter.
 - (2) All courses shall be at least two (2) hours in length. Recommended curriculum for Committee approval may cover, but it is not limited to, the following topics related to residential real property of four or fewer residences: (Approval of Continuing Education material is not an endorsement or underwriting of the subject content or the presentation.)
 - (A) structural systems
 - (B) foundations, basements, grading and drainage
 - (C) interior walls, windows, doors, stairways, ceilings and floors
 - (D) exterior walls, windows, doors, and stairways
 - (E) exterior coatings, claddings and glazing
 - (F) roof structure, coverings, penetrations, drainage and attics
 - (G) porches, decks, driveways and walkways
 - (H) railings and assistive devices
 - (I) thermal insulation, air penetration, and moisture barriers

- (J) electrical service entrances, panels, branch electrical circuits, connected devices
 - (K) environmental heating, cooling ventilation, and air conditioning devices, controls and distribution systems
 - (L) solid, liquid, and gas fuel heating systems
 - (M) electrical heating and cooling systems chimneys, ductwork, vents, fans and flues (including dryer vents)
 - (N) home inspection administrative subjects
 - (i) Oklahoma home inspection laws and regulations
 - (ii) Oklahoma Standards of Practice
 - (iii) ethics
 - (iv) Home Inspection documentation, forms and contracts
 - (v) Report writing and legal ramifications of report content
 - (O) Ancillary Systems
 - (i) Plumbing systems, controls, and components (including septic systems)
 - (ii) Water supply system, capacities, and components (drilled wells/community water supplies)
 - (iii) Swimming pools, spas and hot tubs
 - (iv) Solar/wind/generator energy systems
 - (v) Lawn irrigation systems
 - (vi) Energy auditing
- (3) Unless provided after regular working hours, the training location shall be outside the regular work place.
- (4) The CE provider shall return the sign-in sheets to the home inspection license unit.
- (5) Complaint procedure.
- (A) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of the rules, and specifying the grounds for the complaint.
 - (B) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.
 - (C) The Committee or its designee may consider an unsigned or anonymous complaint for further investigation.
 - (D) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen (15) days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of a statute or rule. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee, or its designee for an anonymous complaint. Failure of the continuing education provider to respond will be considered as a violation of this rule.
 - (E) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken including but not limited to all parts of this subsection.

NOTICE OF RULEMAKING INTENT

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 70. HOME INSPECTION INDUSTRY REGULATIONS

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

158:70-1-2 [AMENDED]

Subchapter 9. Examination Applications, Examinations, Course Approval Requirements, Instructor Requirements, Continuing Education, Denied Application Appeal, Submission of Records, Substantial Compliance and Reciprocity

158:70-9-2 [AMENDED]

158:70-9-3 [AMENDED]

158:70-9-5 [AMENDED]

SUMMARY:

The amendments to 158:70-1-2 clarify that an applicant can also be an applicant for continuing education approval and amend/clarify the definition for "Classroom Hour", "credit hour" and "clock hour." The amendments to 158:70-9-2 amends procedures/requirements related to an applicant who violates exam procedures as determined by the examination provider. The amendments to 158:70-9-3 amends the deadline for submission of applications for continuing education course approval; clarifies that the requirement for applications for continuing education course approval to be resubmitted annually applies to online or correspondence courses; and clarify that continuing education courses must be conducted substantially as shown on the agenda approved by the Home Inspector Examiners Committee ("the Committee"). The proposed amendments to 158:70-9-5 provides that a designee of the Committee may consider an unsigned or anonymous complaint regarding continuing education for further investigation, and that a designee of the Committee may make a determination as to appropriate action related to an anonymous complaint regarding continuing education.

AUTHORITY:

Construction Industries Board: 59 O.S. §§ 858-627 and 1000.4.

COMMENT PERIOD:

Written and oral comments will be accepted until 4:30 p.m. on January 17, 2017, at the following address: 2401 NW 23rd Street, Ste. 2F, Oklahoma City, OK 73107. During the open public comment period, comments may be delivered during regular business hours or submitted via regular mail.

PUBLIC HEARING:

A Public Hearing is scheduled for 1:30 p.m. on Wednesday, January 18, 2017, at the monthly meeting of the Construction Industries Board which will be held in the Conference Room at 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107. Anyone who wishes to make comments regarding the proposed rules at the public hearing must sign in by 1:30 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Linda Ruckman through the close of the comment period on January 17 2017, at the address shown below for obtaining copies of the proposed rules. **COPIES OF PROPOSED RULES:**

Copies of the proposed rules are available at the Construction Industries Board, 2401 NW 23rd Street, Ste. 2F, Oklahoma City, OK 73107, or online at www.cib.ok.gov.

RULE IMPACT STATEMENT:

NOTICE OF RULEMAKING INTENT

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available beginning December 29, 2016, at the address listed above for obtaining copies of the proposed rules.

CONTACT PERSON:

Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.