

**REPORT OF THE
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION ON**

**The Need for
Regulation of
Home Inspectors**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 4

**COMMONWEALTH OF VIRGINIA
RICHMOND
1994**



COMMONWEALTH of VIRGINIA

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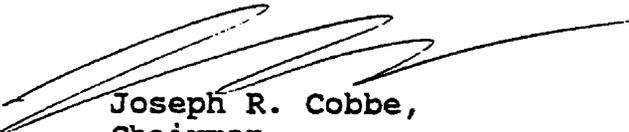
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October 18, 1993

To: The Honorable L. Douglas Wilder, Governor of Virginia
and Members of the General Assembly

The Board of Professional and Occupational Regulation is pleased to submit the following report pursuant to Senate Joint Resolution 254 and House Joint Resolution 493 adopted by the General Assembly in 1993. These resolutions requested the Board to study the feasibility of licensing home inspectors.

Respectfully submitted,



Joseph R. Cobbe,
Chairman

Board of Professional and Occupational Regulation

Report on the Need for Regulation of Home Inspectors

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VIRGINIA BOARD OF PROFESSIONAL AND OCCUPATIONAL REGULATION

REPORT ON THE NEED FOR REGULATION OF
HOME INSPECTORS

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I. EXECUTIVE SUMMARY

A. Study Overview

B. Key Findings

C. Conclusions

D. Recommendations

I. EXECUTIVE SUMMARY

A. Study Overview

Senate Joint Resolution 254 and House Joint Resolution 493 as passed by the 1993 Session of the Virginia General Assembly, requested the Board of Professional and Occupational Regulation (formerly the Board of Commerce) to study the feasibility of licensing home inspectors. The Board was instructed to report its findings to the Governor and the 1994 Session of the General Assembly.

The Board of Professional and Occupational Regulation, through the means of public hearings and surveys to involved parties, studied the nature of this occupation, its effect on public health, safety and welfare, and the feasibility of regulating the occupation.

The Board's recommendations are based on an extensive analysis of this information.

B. Key Findings

1. The home inspection industry has been in existence for more than ten years, and will continue to grow as home buyers seek to be thoroughly informed on the physical condition of a home and as sellers comply with the Virginia Residential Property Disclosure Act, which requires sellers to disclose all known defects in the condition of the property.
2. Some home inspectors, as part of their routine home inspection, do cite violations to the Virginia Uniform Statewide Building Code (USBC) despite the Attorney General's 1989 opinion that the local government building official is solely responsible for assuring compliance with the USBC.
3. Very few documented cases of harm to public health, safety or welfare were brought to the attention of the Board. The Board recognized the potential for harm and the uncertainty by consumers as to how or where to report the incompetent or unethical activity of a home inspector.
4. While some states are now considering a regulatory program, very few states currently regulate home inspectors.

C. Conclusions

After considering the findings and the regulatory options, the following conclusions were made:

1. The Board does not have sufficient evidence of home inspectors posing a threat to public health, safety and welfare to justify the need for a regulatory program at this time.

2. Based on the projected number of potential regulants, and in order for the program to comply with the provisions of the Callahan Act, a regulatory program for this industry could be quite costly to home inspectors.

3. The Board acknowledges the potential for harm as expressed by home builders, local building officials and real estate professionals.

4. The Board believes that consumer education on how to choose a home inspector and how to report problems with a home inspector is necessary.

D. Recommendations

The Board of Professional and Occupational Regulation recommends that no state regulatory program be imposed upon home inspectors at this time. The Board will continue to monitor complaints filed against home inspectors with information received from Consumer Affairs Offices, and will review the need for regulation in two years or at such time as an increase in complaints would warrant.

The Board will also investigate the possibility of publishing a consumer oriented brochure on choosing a home inspector.

II. INTRODUCTION

A. Background and Purpose of Report

B. Profile of the Occupation

II. INTRODUCTION

A. Background and Purpose of Report

The Board of Professional and Occupational Regulation has the legislative mandate for evaluating the need for regulation of occupations and making recommendations to the General Assembly.

Section 54.1-100 of the Code of Virginia (1950, as amended) cites that "no regulation shall be imposed upon any profession or occupation except for the exclusive purpose of protecting the public interest when:

1. The unregulated practice of the profession or occupation can harm or endanger the health, safety, or welfare of the public, and the potential for harm is recognizable and not remote or dependent upon tenuous argument;
2. The practice of the profession or occupation has inherent qualities peculiar to it that distinguish it from ordinary work and labor;
3. The practice of the profession or occupation requires specialized skill or training and the public needs, and will benefit by, assurances of initial and continuing professional and occupational ability; and
4. The public is not effectively protected by other means."

The 1993 Session of the Virginia General Assembly included passage of Senate Joint Resolution 254 and House Joint Resolution 493 requesting the Board of Professional and Occupational Regulation to study the feasibility of licensing home inspectors, and to submit its findings to the Governor and the 1994 Session of the General Assembly. As noted in the legislation, the Home Builders Association of Virginia initiated the study with concerns about activities of certain home inspectors. (See APPENDIX A and APPENDIX B for copies of the resolutions.)

Using the requirements set forth above and in Section 54.1-311 of the Code of Virginia which outlines the degrees of regulation, the Board of Professional and Occupational Regulation began a several month long study. The study process included information gathering from various sources, public hearings and surveys to involved parties. This report will serve to outline the findings of the study and the Board's recommendations.

B. Profile of the Occupation

Home inspectors typically perform pre-purchase home inspections for prospective buyers, wherein the buyer pays a fee (ranging from \$100 - \$300 in Virginia depending on the size of the home) for several hours of on-site work that takes place within the home of the prospective seller. The inspector, who may follow a checklist, looks at various components of the house and how they may interact with each other in adverse ways. While not so concerned with cosmetic features, the inspector checks electrical systems, built-in appliances, plumbing, heating and cooling systems, roofing, walls, ceilings, floors, windows, insulation, doors and the foundation.

In addition to identifying potential problems in the structure of the house or its mechanical components, a home inspector also seeks to educate the home buyer as to how the various systems in the house are supposed to work, the appropriate maintenance for the house and systems, and the remaining life expectancies of the various aspects of the house (such as the roof), and their approximated replacement costs. The American Society of Home Inspectors (ASHI) noted that communication skills, particularly the ability to put concerns in perspective for the client and others involved in the real estate transaction, are imperative. Clarity and fairness are critically important in the communication of the inspector's identification of a problem or potential problem with a house. The home inspector must also communicate to the client that this inspection is one person's visual opinion on potential problems in a house and is not an insurance policy that nothing will go wrong with the house.

A home inspector may be a former government building official, an architect, an engineer, a builder experienced in renovation or a professional who specializes in home inspections. No matter what the experience or education, it is estimated that there are between 250 and 500 people currently offering their services as home inspectors in Virginia. Staff to the Board of Professional and Occupational Regulation were able to identify 180 individuals currently offering such services.

As home buyers become more concerned about the construction of their home, requests for home inspectors to inspect new home construction has increased as well. Such inspections would occur in addition to the inspection conducted by the local government building official who is responsible for determining whether the construction meets the requirements of the Virginia Uniform Statewide Building Code. When asked in the Board's survey to identify the percentage of home inspections they completed in the past year on new homes, the majority, 69.4% said only 0-5% of the inspections they completed were in new homes.

III. ISSUES

- A. Authority to Cite Violations to the Uniform Statewide Building Code**
- B. How Consumers Choose a Home Inspector**
- C. Industry Self-regulation**
- D. Virginia Residential Property Disclosure Act**

III. ISSUES

A. Authority to Cite Violations to the Uniform Statewide Building Code

As clearly stated in the study resolutions, the Home Builders Association of Virginia had concerns that there is a lack of uniform requirements or qualifications for those engaged in the home inspection business, and that home inspectors purporting to give opinions regarding construction standards and structural integrity should have a thorough understanding of residential construction practices and the Uniform Statewide Building Code (USBC).

It was evident through the public hearings that home builders support regulation of home inspectors because they feel that some inspectors are incorrectly interpreting the USBC. As mentioned in Section II, the new trend by some home buyers to hire a home inspector for new home construction has resulted in tension between the home builder and the inspector who may not have been trained in the interpretation of the USBC, but in essence is reviewing the work of the home builder.

In agreement with the Home Builders Association is the Virginia Building and Code Officials Association. Local building officials speaking for the association testified and submitted written comments supporting regulation of home inspectors as a means of defining what a home inspection is and is not. Examples were provided of home inspection reports in which the home inspector cited building code violations and specifically referred to sections of the USBC. While the Virginia Building and Code Officials Association believes that while home inspectors may identify items for further investigation by appropriate parties, they should be prohibited from stating orally or in writing that they have identified building code violations. Representatives of the Building Officials supported their argument with the May 1989 Attorney General's opinion which stated that "no person other than the local building official is authorized to cite a violation of the USBC."

A survey sent to 180 home inspectors of which 108 responded indicated that 68.5% of those responding do not cite violations to the Uniform Statewide Building Code (27.8% indicated they do cite violations and 3.7% provided no response). Board staff also sent surveys to 164 local building officials. Of those 138 who responded to the survey, 42.8% said it had been their experience that home inspectors cite violations to the USBC.

B. How Consumers Choose a Home Inspector

Public hearings throughout the Commonwealth revealed that the decision to have a home inspection varies depending on the home buyer and their knowledge of the home inspection service. At the Roanoke public hearing, individuals testified that in some areas home inspections are just now becoming popular, unlike in Northern Virginia where some real estate firms have chosen to require that home buyers sign a waiver if they do not choose to have a home inspection. Some lending institutions are also requiring that a home inspection be completed.

How does a home buyer choose a home inspector? Results of the survey to home inspectors revealed that 57.4% received the majority of their customers from real estate agent referrals. When asked for the second most successful source of referrals, 50.0% of those responding said recommendation was made by a previous customer. Several home inspectors testified of their concern that some home inspectors ignore problems in order that the real estate agent would continue referring future home buyers. One consumer complaint brought to the Board's attention asserted that the real estate agent recommended an incompetent home inspector in order to avoid discovery of deficiencies in the house. The American Society of Home Inspectors takes the position that it is critical for the industry to remain uninfluenced and at arms reach from real estate agents and home builders if the home buying consumer is to be fairly and honestly served by the home inspection community.

Board staff surveyed local chapters of the Virginia Association of REALTORS. Of those responding, 36.8% said they generally provide clients with a list of home inspectors in the area; 29.8% said they give consumers one or two names of home inspectors; 3.5% refer clients to the yellow pages; 3.5% suggested other means of recommending home inspectors; and 26.3% did not respond.

The Board recognizes that consumers need to be educated as to how to choose a home inspector. The Board also recognizes the concern that the very nature of the industry makes it difficult to choose an individual who has every technical skill and total knowledge about all aspects of a house. The American Society of Home Inspectors argues that there are approximately 600 significant problems that routinely occur in houses and more than 500 significant components and systems which are capable of interacting with each other in adverse ways.

The Board believes that several different specialists could be used in obtaining a thorough home inspection. For example, as

noted by the National Academy of Building Inspection Engineers, professional engineers who are already regulated by the state are the best prepared to inspect the structural integrity of a house.

C. Industry Self-regulation

Section 54.1-311.B of the Code of Virginia states that in determining the need for regulation of an occupation, the Board shall evaluate whether the professional or occupational associations adequately protect the public from incompetent, unscrupulous, or irresponsible members of the profession or occupation. The Board surveyed the American Society of Home Inspectors, the National Association of Home Inspectors and the National Academy of Building Inspection Engineers.

The American Society of Home Inspectors (ASHI) currently has 55 members and 89 candidates for certification in Virginia. Practitioners who are members of ASHI must pass a series of tests and must demonstrate having performed 250 individual inspections. Membership also includes a continuing education requirement of 40 hours per year.

The National Academy of Building Inspection Engineers (NABIE) is a chartered affinity group of the National Society of Professional Engineers and has two members in Virginia. Members of this group are already licensed as professional engineers and specialize in home inspection. The National Association of Home Inspectors has 21 members in Virginia.

ASHI representatives spoke at all of the public hearings and questioned the need for state regulation, and also expressed the concern that a regulatory program could be difficult and costly to administer. Members also warned against a registration program like the one initially implemented by the state of Texas, where the lack of entry requirements attracted high numbers of unqualified individuals to the occupation.

The National Society of Professional Engineers' policy is that those aspects of building inspections which require the application of engineering principles constitute the practice of engineering, and should only be performed by licensed professional engineers.

Although these associations had varying positions on the need for regulation, it was clear from the public hearings that members feel their involvement with a professional trade association has been very helpful in setting standards of practice, developing pre-inspection agreements and checklists to use during an inspection, and providing educational programs. In addition, the associations have a Code of Ethics

for members. The American Society of Home Inspectors reported four disciplinary cases of members in the past year. While the Board recognizes that such involvement with a professional association is voluntary, 66.7% of the home inspectors who responded to the Board's survey do belong to a professional association.

D. Virginia Residential Property Disclosure Act

The Virginia Residential Property Disclosure Act requires owners of residential property, whenever the property is to be sold or leased with an option to buy, to furnish to the purchaser either a residential property disclaimer statement stating that the owner makes no representations or warranties as to the condition of the property, except as otherwise provided in the purchase contract, or a residential property disclosure statement disclosing defects in the condition of the property actually known by the owner. This so called "Seller Disclosure" law may result in an increase in the use of a home inspector's services.

IV. RESEARCH AND COMPLAINTS

- A. Methodology**
- B. Survey of Home Inspectors**
- C. Survey of Virginia Building Officials**
- D. Survey of Real Estate Offices**
- E. Survey of Consumer Affairs Offices and Better Business Bureaus**
- F. Survey of Other States**
- G. Public Hearings**
- H. Written Comments**

IV. RESEARCH AND COMPLAINTS

A. Methodology

Due to the high direct and indirect costs inherent in establishing any new or expanded level of occupational regulation, the Board felt it was necessary to conduct a search and analysis of complaints from consumers and others involved in the home inspection industry to make sure that problems are properly addressed at minimal costs and in the most efficient and effective manner.

The following section will analyze data compiled from the Board of Professional and Occupational Regulation's surveys.

B. Survey of Home Inspectors

Using mailing lists provided by trade associations and yellow page telephone directories, Board staff sent surveys to 180 home inspectors in Virginia. The Board received 108 completed surveys.

Inspectors were asked to best describe their training and qualifications as a home inspector. The responses showed a variety of backgrounds which prepare home inspectors for their profession; 29.6% have worked as a licensed contractor; 12.0% have been licensed as a professional engineer; 25.0% have received training from the American Society of Home Inspectors; 4.6% have worked as a local building official; 26.9% have had various other backgrounds which they felt prepared them for the occupation; 1.9% did not respond.

The Board asked home inspectors if they currently carry errors and omissions insurance; 43.5% said yes; 53.7% said no and 2.8% did not answer.

A majority, 51.9% of those surveyed, did not think regulation of home inspectors was necessary to protect the public; 27.8% did feel regulation was necessary; 17.6% were uncertain and 2.8% did not respond. (See APPENDIX C for a copy of the survey and results.)

C. Survey of Virginia Building Officials

The Department of Housing and Community Development provided a mailing list of 164 building officials to be surveyed. Of the 164 surveys sent, 138 were returned. When asked whether they thought state licensure of home inspectors was necessary to protect the public, 75.4% responded yes; 7.2% no; 15.9% uncertain and 1.4% did not respond. As noted earlier in the report, building officials expressed concern with home

inspectors incorrectly citing violations to USBC. Other problems with home inspectors were also noted. Of the building officials responding, 32.6% were aware of cases in which the public had been harmed by an incompetent home inspector; 60.1% had not experienced such harm; 7.2% did not respond. (See APPENDIX D for a copy of the survey and results.)

D. Survey of Real Estate Offices

In order to receive input from real estate professionals in the Commonwealth, the Board agreed to survey local chapters of the Virginia Association of REALTORS. Surveys were sent to 33 offices with instructions that the surveys could be circulated to the local officers. While 10.5% said they had not experienced problems with inspectors, 29.8% responded that home inspectors give opinions on matters in which they are not qualified. 26.3% responded that home inspectors unnecessarily frighten the home buyer with potential problems; 7.0% had other specific problems, and 26.3% did not respond. Those responding agreed (94.7%) that home inspectors should be regulated by the state; 3.5% did not think regulation was necessary, and 1.8% were uncertain. (See APPENDIX E for a copy of the survey and results.)

E. Survey of Consumer Affairs Offices and Better Business Bureaus

Thirteen Consumer Affairs Offices and Better Business Bureaus in Virginia received surveys requesting information about consumer complaints filed against home inspectors. Seven responses showed that four of these complaint gathering sources had not received complaints against home inspectors, three had received complaints. Four of the offices responding thought regulation of home inspectors was necessary to protect the public, three were uncertain. (See APPENDIX F for a copy of the survey and results.)

F. Survey of Other States

Section 54.1-311.B of the Code of Virginia states that in determining the proper degree of regulation, if any, the Board should consider several factors including the number of states which have regulatory provisions similar to those proposed. The Board surveyed 49 other states and 37 responded. Only 5.4% (two) of those states responding currently regulate home inspectors, however, 27.0% (ten states) are considering regulation. The Board believes that other states, like Virginia, may see the potential for problems, but have not embarked on a regulatory program at this time. (See APPENDIX G for a copy of the survey and results.)

G. Public Hearings

The Board of Professional and Occupational Regulation conducted public hearings in Newport News, Roanoke, Northern Virginia and Richmond during the month of May to gather information about the nature of this occupation and complaints relating to the need for state regulation.

Representatives from the Virginia Home Builders Association supported regulation in order to establish occupational entry requirements and training for home inspectors. In Roanoke, representatives provided examples of home inspections where violations to the Uniform Statewide Building Code were incorrectly noted by a home inspector.

Likewise, real estate professionals testified that more consistency in the format of inspections was needed and that the cost of needed repairs quoted by a home inspector are often overstated. Building officials also supported licensing to prevent home inspectors from citing violations to the USBC as well as to establish some accountability.

Home inspectors who testified offered varying opinions on the need for regulation. One home inspector offered a letter from Consumer Affairs reporting only five complaints brought against home inspectors in five years. The majority of those testifying argued that the marketplace does take care of problems and that state regulation could be costly.

A consumer testifying in Northern Virginia was in the process of suing a home inspector who incorrectly identified the life of an FRT plywood roof. (See APPENDIX H for a list of hearing participants.)

H. Written Comments

Twenty six written comments were submitted to the Board of Professional and Occupational Regulation for the purpose of being placed in the official record of this study. (See APPENDIX I for a summary of the written comments.)

Members of the occupation who submitted written comments questioned the need for costly regulation. Some noted that few inspectors perform inspections on new home construction and that a thorough understanding of the USBC could be overkill. Home inspectors also thought it would be difficult to establish qualifications or an examination for the occupation.

A consumer complaint brought to the Board's attention by a building official alleged that an inspector minimized problems in hopes of obtaining future referrals from the selling real estate agent.

V. SUMMARY

- A. Findings**
- B. Regulatory Options**
- C. Conclusions**
- D. Recommendations**

V. SUMMARY

A. Findings

In order to properly analyze all of the information gathered through this study, the Board of Professional and Occupational Regulation returned to Section 54.1-100 of the Code of Virginia and considered these statutory constraints:

No regulation shall be imposed upon any profession or occupation except for the exclusive purpose of protecting the public interest when:

1. The unregulated practice of the profession or occupation can harm or endanger the health, safety or welfare of the public, and the potential for harm is recognizable and not remote or dependent upon tenuous argument.

The unregulated practice of this occupation has potential safety concerns for members of the public who choose to hire a home inspector. For example, if a home inspector overlooks an aluminum wire or fails to refer to it as a "heightened fire risk", the home can become a threat to the safety of the home buyer.

The cases of harm which were brought to the Board's attention throughout this study process, however, seemed more limited to financial welfare. The potential victim is the home buyer, when faulty conditions of a house are not disclosed and may result in unforeseen costly repairs. The seller also can become the victim if an inspector exaggerates a problem or unduly alarms a potential buyer such that the buyer thinks the house is substantially worse than it is and decides to rescind the contract offer. Finally, the real estate agent and the home builder are potential victims of the loss of a sale of a house due to an incorrect assessment of the home by a home inspector.

Survey results from complaint data showed relatively few consumer complaints. Only three citizens brought complaints to the Board's attention. The Board questions whether there is a significant threat to the public health, safety and welfare which would warrant state regulation. At the same time, members of the Board acknowledge that consumers currently may not know where or how to file a complaint or concern regarding a home inspector.

2. The practice of the profession or occupation has inherent qualities to it that distinguish it from ordinary work and labor.

Home inspectors need to understand the full range of problems

known to exist in houses, the causative factors that create problems, the maintenance and idiosyncracies of all components and systems, the effects of different soils and climates and how buildings are constructed to compensate for these effects, and be able to communicate all of this information intelligently and understandably to their clients and real estate professionals. Public comments from home inspectors stressed that professional judgement and communication skills are as important as technical competence and could be quite difficult to test.

3. The practice of the profession or occupation requires specialized skill or training and the public needs and will benefit by assurances of initial and continuing professional and occupational ability.

Consumers would most likely benefit from some assurance that a home inspector has met minimum qualifications. Information on how to select a home inspector and what to expect from a home inspection report could be helpful to consumers. However, the Board also agreed that Virginia is a free enterprise state and lacking clear and overwhelming evidence that the public is at immediate risk, individuals should be able to pursue an occupation without meeting state entry requirements.

4. The public is not effectively protected by other means.

Under current law, consumers seeking retribution must go to small claims court to have their grievances heard. Many home inspection companies have also incorporated a binding arbitration clause in their contracts which allows for another approach to resolution of disputes.

B. Regulatory Options

The Board of Professional and Occupational Regulation identified and considered different regulatory options. The options which were considered are discussed below:

1. Registration

A registration program would allow for the identification of all home inspectors operating in the Commonwealth. It would not be a costly program nor would it present any barrier to entry into the occupation. A registration program, however, provides very limited public protection, for there are no minimum standards to ensure competence and the potential for the public to assume that the state has approved the individual to practice may exist.

2. Certification

A certification program which could be voluntary would present no barrier to entry, but there would be limited public protection as well.

3. Licensure

A licensure program would set minimum standards for entry, and would allow for broad enforcement authority. This would provide the highest degree of public protection. This form of regulation, however, could be costly since there are relatively few home inspectors to support such a program.

4. Real Estate Law Amendment

The Board also considered changes to the real estate law which could correct the situation of real estate agents referring home inspectors to clients.

C. Conclusions

After considering the findings and the regulatory options, the following conclusions were made.

1. The Board does not have sufficient evidence of home inspectors posing a threat to public health, safety and welfare to justify the need for a regulatory program at this time.

2. Based on the projected number of potential regulants, and in order to comply with the Callahan Act, a regulatory program for this industry could be quite costly to home inspectors.

3. The Board acknowledges the potential for harm as expressed by the home builders, local building officials and real estate professionals.

4. The Board believes that consumer education on how to choose a home inspector and how to report problems with a home inspector is necessary.

D. Recommendations

The Board of Professional and Occupational Regulation recommends that no state regulatory program be imposed upon home inspectors at this time. The Board will continue to monitor complaints filed against home inspectors with information received from Consumer Affairs Offices, and will

review the need for regulation in two years or at such time as an increase in complaints would warrant. The Board will also investigate the possibility of publishing a consumer oriented brochure on choosing a home inspector.

VI. APPENDICES

- A. Senate Joint Resolution 254**
- B. House Joint Resolution 493**
- C. Survey of Home Inspectors**
- D. Survey of Building Officials**
- E. Survey of Real Estate Offices**
- F. Survey of Consumer Affairs
Offices and Better Business
Bureaus**
- G. Survey of Other States**
- H. List of Public Hearing
Participants**
- I. List of Written Comments**

1993 SESSION

LD9139759

SENATE JOINT RESOLUTION NO. 254

Offered January 26, 1993

Requesting the Board of Commerce to study the feasibility of licensing home inspectors.

Patrons—Woods and Howell; Delegates: Brickley, Cunningham, R.K., Darner, Fisher, Keating and Van Landingham

Referred to the Committee on Rules

WHEREAS, the Home Builders Association of Virginia has heard from its members across the Commonwealth expressing concern over the activities of certain home inspectors; and

WHEREAS, the major concern is the lack of uniform requirements or qualifications for those engaged in the home inspection business; and

WHEREAS, home inspectors purporting to give opinions regarding construction standards and structural integrity should have a thorough understanding of residential construction practices and the Uniform Statewide Building Code; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Board of Commerce be requested to study the feasibility of establishing a licensing program for home inspectors.

The Board of Commerce shall conclude its study and report to the Governor and the 1994 Session of the General Assembly no later than December 1, 1993, as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

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1993 SESSION

LD9109204

HOUSE JOINT RESOLUTION NO. 493

Offered January 22, 1993

Requesting the Board of Commerce to study the feasibility of licensing home inspectors.

Patrons—Stump, Almand, Christian, Diamonstein, Miller, Parker and Scott; Senators: Calhoun, Maxwell, Waddell and Walker

Referred to the Committee on Rules

WHEREAS, the members of the Home Builders Association of Virginia have expressed concern over the activities of certain home inspectors; and

WHEREAS, the major concern is the lack of uniform requirements or qualifications for those engaged in the home inspection business; and

WHEREAS, home inspectors purporting to give opinions regarding construction standards and structural integrity should have a thorough understanding of residential construction practices and the Uniform Statewide Building Code; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Board of Commerce be requested to study the feasibility of establishing a licensing program for home inspectors.

The Board of Commerce shall conclude its study and report to the Governor and the 1994 Session of the General Assembly no later than December 1, 1993, as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Official Use By Clerks

Agreed to By The House of Delegates without amendment [] with amendment [] substitute [] substitute w/amdt []

Agreed to By The Senate without amendment [] with amendment [] substitute [] substitute w/amdt []

Date: _____

Date: _____

Clerk of the House of Delegates

Clerk of the Senate

180 Surveys Sent
108 Surveys Returned

APPENDIX C

Board of Professional and Occupational Regulation
Survey of Home Inspectors

1. How would you best describe your training and qualifications as a home inspector? (choose only one)

29.6% have worked as a licensed contractor
12.0% have been licensed as a Professional Engineer
25.0% have received training from the American Society for Home Inspectors
4.6% have worked as a local building official
26.9% other (please explain) _____
1.9% no answer

2. How do you receive the majority of your customers? (choose only one)

12.0% advertisement in yellow pages
0.0% news media advertising
26.9% recommendation by a previous customer
2.8% advertising circular
57.4% referred by real estate agents
0.9% no answer

3. What is the next most successful source for customers?

15.7% advertisement in yellow pages
1.9% news media advertising
50.0% recommendation by a previous customer
0.9% advertising circular
30.6% referred by real estate agents
0.9% no answer

4. Are you a member of a professional trade association for home inspectors?

66.7% Yes 32.4% No 0.9% No Answer

5. What percentage of the home inspections you completed in the past year were conducted on homes not previously occupied?

69.4% 0 - 5% 19.4% 5 - 10% 4.6% 10 - 25%
3.7% over 25% 2.8% No Answer

6. When conducting a home inspection, do you cite violations to the Virginia Uniform Statewide Building Code?

27.8% Yes 68.5% No 3.7% No Answer

7. Of the inspections you conducted in the past year, how many resulted in the consumer lodging a complaint against you?

73.1% No complaints
24.1% 1 - 5
0.0% 5 - 10
0.0% 10 - 25
0.0% over 25
2.8% No Answer

8. If you indicated complaints filed against you in question #7, were these complaints in the nature of you citing a problem the consumer felt did not exist or did you not cite a problem the consumer felt did exist?

2.8% consumer felt cited problem did not exist
22.2% consumer felt problem did exist which was not cited
75.0% no answer

9. Do you currently carry errors and omissions insurance?

43.5% Yes 53.7% No 2.8% No Answer

10. Do you think regulation of home inspectors is necessary to protect the public?

27.8% Yes 51.9% No 17.6% Uncertain
2.8% No Answer

11. If yes to question #10, please provide examples of situations where the public was not protected due to the absence of regulation.

Responses varied greatly, but no specific examples were provided of situations where the public was not protected due to the absence of regulation.

164 Surveys Sent
138 Surveys Returned

APPENDIX D

Board of Professional and Occupational Regulation
Survey of Local Government Building Inspectors

1. What percentage of the new homes you inspect are also inspected by a home inspector hired by the buyer?

67.4% 0 - 10%
10.9% 10 - 25%
8.0% 25 - 50%
2.2% 50 - 75%
0.7% 75 - 100%
13.0% no answer

2. Is it your experience that home inspectors cite violations to the Virginia Uniform Statewide Building Code?

36.2% Yes 47.1% No 16.7% No Answer

3. Are you aware of cases in which the public has been harmed by an incompetent home inspector?

32.6% Yes 60.1% No 7.2% No Answer

4. Check those problems which you have experienced with home inspectors:

37.7% no problems experienced;
42.8% incorrectly cites violations to the Virginia Uniform Statewide Building Code;
6.5% unnecessarily frightens the home buyer with potential problems;
0.0% overstates the cost of repairs which may be necessary;
2.9% other, please explain _____
10.1% no answer

5. Do you think state licensure of home inspectors is necessary to protect the public?

75.4% Yes 7.2% No 15.9% Uncertain 1.4% No Answer

6. If yes to #5, why do you think regulation is necessary?

Varied responses included the need for inspectors to understand the USBC, the need to protect the public from improper code interpretations, the need to establish minimum qualifications and uniformity of inspections, the need to establish ethical standards.

33 Surveys sent which could
be circulated to officers
57 Completed Surveys Returned

APPENDIX E

Board of Professional and Occupational Regulation
Survey of Real Estate Offices

1. Do most real estate agents in your area recommend that a home inspection be completed before the purchase of a home?
68.4% Yes 26.3% No 5.3% No Answer

2. If yes to question #1, how do real estate agents generally recommend that a client choose a home inspector?
3.5% refer them to the yellow pages;
36.8% provide them with a list of home inspectors in the area;
29.8% give them one or two names of home inspectors;
0.0% suggest they contact the American Society of Home Inspectors, the National Association of Home Inspectors or other professional association to receive a list.
3.5% other (please explain) _____
26.3% no answer

3. Check those problems which realtors in your area have experienced with home inspectors:
10.5% no problems experienced;
29.8% gives opinions on matters in which they are not qualified;
26.3% unnecessarily frightens the home buyer with potential problems;
0.0% incorrectly cites violations to the Virginia Uniform Statewide Building Code;
0.0% overstates the cost of repairs which may be necessary;
7.0% other (please explain)
26.3% no answer

4. Do you think home inspectors should be regulated by the state?
94.7% Yes 3.5% No 1.8% Uncertain

5. If yes to question #4, why? Answers included the need for uniformity in inspection reports, the need for minimum standards, the need for more accountability, the need to protect the public from incompetent home inspectors, and the argument that real estate agents are licensed why shouldn't home inspectors be licensed.

13 Surveys Sent
7 Surveys Returned

APPENDIX F

Board of Professional and Occupational Regulation
Survey of Consumer Affairs Offices and
Better Business Bureaus

1. Do you ever receive complaints against home inspectors?
60.0% Yes 40.0% No

2. How many complaints against home inspectors have you received in the past year?
40.0% none
60.0% 1 - 10
0.0% 11 - 20
0.0% more than 20

3. How many valid claims were determined as a result of the complaints?

4. How many complaints against home inspectors have you received in the past five years?
40.0% none
60.0% 1 - 25
0.0% 26 - 50
0.0% more than 50

5. Check the types of complaints received:
20.0% falsely advertised services or credentials;
0.0% inspected only certain aspects of the house;
0.0% failed to provide consumer with a report;
60.0% incorrectly stated the soundness of the home which later resulted in serious problems for the consumer;
0.0% other, please explain _____

6. Do you think regulation of home inspectors is necessary to protect the public?
60.0% Yes 0.0% No 40.0% Uncertain

49 Surveys Sent
37 Surveys Returned

APPENDIX G

**Board of Professional and Occupational Regulation
Survey of Other States**

1. Does your state regulate home inspectors?

5.4% Yes 94.6% No

2. If no, is your state considering regulation?

27.0% Yes 62.2% No 10.8% No Answer

3. If your state currently regulates this occupation, what category best describes the regulatory program?

0.0% **registration** - any person may engage in the occupation, but that person must submit certain information to the appropriate authorities.

0.0% **certification** - any person may practice the occupation, but only those who have met certain educational and/or experience requirements may use the title "Certified home inspector";

5.4% **licensure** - a person is prohibited from engaging in the occupation without meeting certain educational and/or experience requirements and obtaining a license.

94.6% **no answer**

APPENDIX H

Public Hearing Participants

Newport News, Virginia - May 4, 1993

SPEAKER	AFFILIATION	POSITION
Bill Gaddy	American Society of Home Inspectors	Supports regulation to ensure uniformity and ethical standards.
Ken Zenzel	Amber Building Inspection Services	Opposes regulation, for it will restrict entry and raise prices which will not benefit the consumer.
Jill Pope	Peninsula Home Builders Association	Supports regulation which would require inspectors to have the same training as local building officials in order that they are familiar with the Uniform Statewide Building Code.
Fred Simmermon	Home Inspector	Not certain that regulation is necessary and it would be difficult to create an exam which would cover all the aspects of home inspection.
Ray Hudson	FHA Compliance Inspector	Does not believe that licensing is necessary but would support a training requirement.
Robert Criner	Remodeling Contractor	Supports testing of home inspectors.

SPEAKER	AFFILIATION	POSITION
Arthur Berkley	Virginia Building Code Officials Association	Supports regulation to make sure there are minimum standards for entry and there is the enforcement authority to protect the public.
Pete Sessa	Home Inspector	Uncertain of the need for licensing, for there are not enough complaints from the public.
Eddie Welch	Home Inspector	Not opposed to a regulatory program, but concerned about how it would be administered. Also believes self-regulation has been effective.
Jack Moriarty	Home Inspector	Concerned that many of the problems occur when there are rechecks after problems in the home have supposedly been corrected.

Roanoke, VA - May 12, 1993

Lewis C. Jamison	Home Builders Assoc. of Virginia	Concerned that some home inspectors offer subjective judgements regarding whether a home complies with the Uniform Statewide Building Code. Supports regulation of home inspectors.
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SPEAKER	AFFILIATION	POSITION
Andy Kelderhouse	Roanoke Regional Home Builders Assoc.	Provided examples of home inspections where Building Code violations were incorrectly noted by a home inspector. Supports regulation and establishing parameters under which inspectors may operate.
Diana Crabtree	MKB Realtors	Concerned that there are inconsistencies between the home inspection reports and that the cost of repairs quoted by a home inspector are always overstated.
Ray A. Pangle	RAP Construction Home Inspection	Supports regulation.
J. Donald Field	Building Consultant Services, Inc.	Supports regulation if it is properly administered, but concerned that state regulation would be too costly since there are not enough inspectors to pay for the program.
Len Boone	Boone & Co. Realtors Boone & Loeb Builders	Supports licensure of home inspectors in order to achieve more consistency in the format of inspections. Provided examples of three sales which were lost as a result of the home inspection.
David Hatchett	Roanoke City Building Official	Supports regulation because everyone associated with a real estate trans-

SPEAKER**AFFILIATION****POSITION**

action should
have accountability.

Bud Cheney

City of Roanoke
Development Office and
licensed real estate
agent

Supports licensure
of home inspectors
as a means of
protecting the public
from unqualified and
uneducated home
inspectors.

Northern Virginia - May 19, 1993

James Thompson

Mid-Atlantic Chapter
of the American Society
of Home Inspectors

Concerned that there
are only certain
home inspectors who
are causing problems
for home builders.

Neil Swanson

New Home Inspector

Licensing of home
inspectors is great
if it sets a good
standard.

Shelia Rummel

Prince William Assoc.
of Realtors

Supports regulation
because inspectors
often have neither
the background nor
the experience to
fairly evaluate
properties.

Fred Heppner

Home Inspector

Believes the market-
place takes care of
the majority of
problems with home
inspectors. Supports
cooperative education
programs for realtors,
builders and home
inspectors.

James Chalupsky

Homeowner

Currently suing a
home inspector who
incorrectly identified
the life of a FRT
plywood roof.

SPEAKER	AFFILIATION	POSITION
David Drewry	NOVA-ASHI	Does not believe that licensing equates to a better or thorough understanding of any specialty and feared that the cost of a regulatory program for less than 250 people would be quite high.
Victor Hare	Structural Engineer	Supports a strict licensing program because the potential for harm does exist. Supports the Maryland disclosure system if licensing is not recommended.
Mike Lennon	Home Pro Systems	Supports the Maryland disclosure approach and the use of arbitration and the marketplace to take care of any problems.
Bruce Berlage	Northern Virginia Building Industry Association	Supports licensing program which would include the same training as local building officials and examination requirements to ensure competence.
Jack Riley	Home Inspector	Concerned that the State should not dictate the problems inspectors can find in an inspection and can communicate to their client.
Richard McDowell	Home Inspector	Concerned that it would be difficult for the state to develop a regulatory program and an exam for determining competence.

SPEAKER**AFFILIATION****POSITION****Richmond, Virginia - May 26, 1993**

Mike Lenon	Home Pro Systems	Concerned that the real problems are with new home code interpretations. Recommends the use of disclosure statements for resales and an explanation of the building code for any new home code interpretations.
Bob Moore	R. J. Moore Associates	Supports licensing if the program establishes good standards and educational requirements. Believes disclosure law will force an increase in the number of home inspectors.
Bob Martinko	Home Builders Assoc.	Supports licensing of home inspectors and a requirement that inspections be limited to resale homes.
Susan Hocking	House Master of America	Not aware of any consumer outcry for regulation of home inspectors. Offered letter from Consumer Affairs reporting only five complaints brought against home inspectors in five years. Suggests adding this occupation to the Virginia Trade Practices Act.
David Lee	Assurance Home Services	Supports regulation. Concerned that many inspectors offer remedial work.

SPEAKER	AFFILIATION	POSITION
Paul Hocking	House Master of America	Does not support licensing. Offered examples of housing construction work which was improperly done and which inspectors identify.
Barry Irby	Home Reporters, Inc.	Concerned that the fees of a regulatory program could be quite high. Level of complaints is too small to justify licensing.
Greg Revels	Virginia Building & Code Officials Assoc.	Supports licensing and believes the use of inspectors will increase with the new real estate disclosure law. Main concern is that licensure is needed to prevent home inspectors from citing violations to the Virginia Statewide Building Code.
Jim Robertson	Physical Inspections	Concerned that any definition of home inspector include different types of inspectors such as mortgage and insurance inspectors.

APPENDIX I**Summary of Written Comments
Concerning the Regulation of Home Inspectors**

NAME	AFFILIATION	POSITION
Susan S. Hocking	HouseMaster of America	Regulation would only be beneficial if it will protect the consumer; recommends the occupation be added to the VA Trade Practices Act.
Bob Lowery	National Home Certification Board	Opposes regulation, for government involvement will mean increased paperwork and costs. It is also difficult to establish qualifications for this occupation.
Jack Reilly	VA Home Inspector	Argues a regulatory program would be difficult to support through fees. Supports five-year registration program as well as the requirement that a resume and disclaimer be presented by home inspectors.
David R. Drewry	Drewry Home Inspections	Believes that a licensure program and a requirement to have thorough knowledge of the Code is overkill when so few inspectors perform inspections on new home construction.
Preston Layfield	Member, Tidewater ASHI	Licensure is an unnecessary and bureaucratic control of any industry.

NAME	AFFILIATION	POSITION
James R. Thompson	Fairfax Home Inspection	Suggests the Board publish a booklet with information about home inspectors to help educate home buyers.
Richard Jansen	Cornerstone Home Inspection	Need for licensure has not been demonstrated. Supports adoption of a standard disclosure statement that defines the scope of a home inspection.
Donald L. Cass	Architectural Inspection	Does not object to licensing program, but provides data from Roanoke Better Business Bureau that only one consumer complaint has been registered in three years. Suggests that there are not enough inspectors to finance a quality licensing program.
Kenneth M. Zenzel	AMER Building Inspection Services	Opposed to licensing because it will increase the cost of home inspections and home buyers in lower price ranges will do without an inspection. Also concerned that regulation would restrict related business (termite and moisture control).
Fred W. Heilich	Cornerstone Home Consultants, Inc.	Opposes licensing. National societies have the necessary code of ethics and will self-regulate.
Joel S. Baker	Home Inspector Building Inspector	Supports regulation and a program similar to Housing and Community Development.

NAME	AFFILIATION	POSITION
Gregory H. Revels	Henrico County Deputy Building Official	Supports licensure of home inspectors and argues that inspectors should be prohibited from citing code violations based on the Attorney General's opinion.
Carl F. Bowmer	Home Builders Assoc. of Virginia (HBAV)	Supports licensure requirements which include same training as local building officials, financial stability, ability to differentiate between Code violations and subjective opinions, and disclaimers to be made available to clients.
Teresa L. Thomson	Virginia Association of Realtors	Supports licensure of home inspectors for there are currently no uniform requirements or qualifications for home inspectors.
Jesse R. Hurt	James Madison Building and Code Officials Association	Supports regulation with requirements for five years experience, BOCA certification and passage of written examination.
Michael A. Pompeii	Professional Engineer	Supports changes in the law to prohibit real estate agents from recommending home inspectors. Supports requirement that home inspectors be licensed engineers or meet strict experience and education requirements.
D. R. Farren, Jr.	Farren Construction Corporation	Supports regulation with an experience requirement of five

NAME	AFFILIATION	POSITION
Susan T. Torda	Consumer	years in construction industry. Supports licensure to protect the public. Inspector she hired minimized problems in hopes of obtaining future referrals from selling real estate agent.
Jo Anne Johnson	Northern VA Assoc. of REALTORS	Supports licensing and the adoption of ASHI criteria.
Stephen Louderback	A Closer Look Home Inspection	Opposes an expensive, poorly conceived government program, but would support a requirement that all inspectors be ASHI members.
William D. Dupler	Chesterfield County Building Official, VA Building Officials Association Vice Pres.	Believes the real estate disclosure law will increase the demand for home inspectors. Supports licensure to provide a means of identifying qualified inspectors and to provide for an enforcement mechanism when problems occur.
A. R. Dahms	Benchmark Inspection	Opposes licensure for there is a small population of home inspectors and there are few complaints.
Robert L. Poff	Inspector U.S.A.	Not certain of the need for a regulatory program. Voluntary compliance with the national trade associations is more effective.

NAME	AFFILIATION	POSITION
Gary A. Schutta	President, National Association of Home Inspectors, Inc.	Submitted position paper which defines a home inspector and requires a pre-inspection agreement.
Russ Shank	Russ Shank & Assoc.	Questions what the qualifications for a home inspector should be. Supports state guidelines of what the inspection report should include and possibly a state registration program.
S. Michael Lynn	Soils and Environmental Services, Inc.	Concerned that private well water and septic system inspections should be left to soil scientists rather than home inspectors.