

## 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 158:70-1-3 are to clarify inspection requirements and standards of practice, the amendments to 158:70-5-2 clarifies insurance requirements and also has an amendment due to legislation (HB 2933) which provides a one-time low income fee waiver; the amendment to 158:70-9-1 strikes language as a result of the Criminal Justice Reform Bill (HB 1373); the amendments to 158:70-9-1.1 are due to legislation (SB 670) which provides a fee waiver for active duty military and their spouses; and the amendment to 158:70-11-2 clarifies existing language and also strikes language as a result of the Criminal Justice Reform Act (HB 1373).
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, 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, and citizens of Oklahoma.
4. **ECONOMIC IMPACT UPON AFFECTED CLASSES OF PERSONS:** Having clear and unambiguous rules should have a positive economic impact in that it should help to keep an individual from unknowingly committing a violation that could result in a fine or penalty. No fees are established only fee waivers provided in certain circumstances by the proposed rules, thus having a positive economic impact on the classes of persons affected.
5. **COSTS AND BENEFITS TO THE AGENCY:** Although there could be a loss of revenue received by the agency associated with SB 670 and HB 2933, the proposed amendments create a minimal initial cost for software changes to account for licenses issued without the associated fee. The benefit is to have clear, unambiguous rules in place to assist those impacted by the rules.
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:** Any 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 18, 2019.

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

**SUBCHAPTER 1. GENERAL PROVISIONS**

**158:70-1-3. Standards of workmanship and practice**

**(a) General requirements.**

(1) These standards of practice are the minimum levels of inspection practice required of inspectors for the components and systems identified in these rules. No additional inspection beyond these standards of practice set out by the rules is required. Any additional inspection services provided beyond or outside the scope of the standards of practice is a contractual matter between the parties. Home inspections performed in accordance with these standards of practice are intended to provide the client with information regarding the condition of the systems and components at the time of the inspection.

(2) The inspector shall be governed by the following general requirements:

(A) The inspector shall inspect all readily accessible installed systems and components listed in these standards of practice.

(B) The inspector shall complete a written inspection report in accordance with these standards and submit the report to the client within an agreed upon time frame.

(C) The inspector shall identify in any written report the client, the inspector who performed the inspection by name and license number, and the address of the inspected property.

(D) The inspector shall report:

(i) those systems and components inspected, which in the professional opinion of the inspector, are in normal working order;

(ii) those systems and components inspected which, in the professional opinion of the inspector, are not in normal working order and the reason, if not self-evident;

(iii) those systems and components inspected which, in the professional opinion of the inspector, could impair the safety of the occupants or client and the reason, if not self-evident;

(iv) the inspector's recommendations to have corrected, further evaluated or monitored any reported condition or defect; and,

(v) any systems and components designated for inspection in these standards, which were present at the time of the Home Inspection but were not inspected and the reason they were not inspected.

(3) These standards of practice are not intended to limit inspectors from:

(A) including other inspection services or inspecting other systems or components in addition to those required by these Standards when agreed to by the parties contracting for inspection services;

(B) providing a higher level of inspection performance than required by these Standards;

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(C) reporting other observations or conditions in addition to those required by these Standards after any additional conditions are evaluated and would meet the overall purpose of the home inspection, including categorizing additionally reported item, such as but not limited to life and safety, functionality or general maintenance; or,

(D) excluding systems and components from the inspection, if requested by the client in writing prior to the inspection and recorded on a signed form, such as the sample form "Sample Home Inspection Exclusion" at Appendix A of this Chapter.

(4) All home inspectors shall maintain a log or record of all home inspections performed, for a minimum period of five (5) years from the date of inspection. The log or record shall include the name of the client, the address of the property, and the date of the inspection. The home inspector shall maintain a copy of all home inspections completed within the past thirty-six (36) months. The log or record and inspection reports may be a hard file or an electronic file and shall be maintained at the home inspector's principal business address. The files shall be available for review upon request of an authorized representative of the Construction Industries Board.

(5) A home inspector who visually examines any portion of a residential unit that is part of a real property consisting of more than four (4) dwelling units, shall advise, in writing, the person requesting the visual examination that the visual examination being conducted by the home inspector is not governed by the Act and these rules.

(6) All home inspectors should provide the standards of practice of this section to all potential clients prior to the home inspection by proof of signature of acknowledgement.

(7) All home inspectors should require a written pre-inspection agreement to be signed by the client prior to the commencement of a home inspection.

(b) **General limitations and exclusions.**

(1) The inspector is not required to perform any action or make any determination not specifically stated in these Standards of Practice.

(2) Inspections performed in accordance with these standards are not required to be technically exhaustive, will not identify concealed conditions or latent defects and are only applicable to buildings with four or fewer dwelling units and their garages, both attached and detached, or carports.

(3) The inspector is not required to:

(A) perform any action or make any determination unless specifically stated in these Standards, except as may be required by lawful authority;

(B) determine the condition of systems or components which are not readily accessible;

(C) determine the remaining life of any system or component;

(D) determine the strength, adequacy, effectiveness, efficiency or insurability of any system or component;

(E) determine the causes of any condition or defect;

(F) determine the methods or materials for repair or correction of any defect;

(G) determine future conditions including, but not limited to, failure of systems and components;

(H) determine the suitability of the property for any specialized use or compliance with any regulatory requirements other than this Chapter;

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- (I) determine the presence of potentially hazardous plants or animals including, but not limited to, wood destroying organisms, mold, mildew, fungi, or diseases harmful to humans;
  - (J) determine the presence of any environmental hazards including, but not limited to, toxins, carcinogens, noise, and contaminants in soil, water, or air;
  - (K) determine the effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances;
  - (L) determine the operating costs of any system or component;
  - (M) determine the acoustical properties of any system or component;
  - (N) perform engineering or architectural services or perform work in any trade or professional service other than home inspections;
  - (O) provide warranties or guarantees of any kind;
  - (P) operate any system or component which is shut down or otherwise inoperable or turn on any utility services;
  - (Q) operate any system or component which does not respond to normal operating controls, or shut-off valves;
  - (R) enter any area which will, in the opinion of the inspector, likely be dangerous to the inspector or other persons or may damage the property or its systems or components;
  - (S) enter the under-floor crawl spaces, attics or any area which, in the opinion of the inspector, is not readily accessible;
  - (T) inspect or determine the integrity of underground systems or components, including, but not limited to, main drain lines connecting to sewers, water lines, gas lines, electrical lines and underground storage tanks or other underground indications of their presence whether abandoned or active;
  - (U) inspect systems or components which are not installed, decorative items, systems or components located in areas that are not entered in accordance with these Standards, detached structures other than garages and carports, or common elements and areas in multi-unit housing, such as condominium properties or cooperative housing;
  - (V) move suspended ceiling tiles, personal property, furniture, equipment, plants, soil, snow, ice, or debris;
  - (W) dismantle any system or component, except as explicitly required by these rules; or,
  - (X) light any standing gas pilot light that does not have a spark-igniter, including but not limited to heating systems, water heaters and fireplaces; or,
  - ~~(Y) determine the cost to correct any defect or provide cost estimates.~~
- (4) The inspector shall not:
- (A) offer or perform any act or service contrary to law;
  - (B) determine or report on the market value of the property or its marketability;
  - (C) report on the advisability of the purchase of the property; ~~or;~~
  - (D) estimate or speculate the cost for repairs; or
  - ~~(D)~~(E) advertise or solicit to perform repair services on the inspected home for a period of one (1) year from the date of the inspection.
- (c) **Structural system inspection requirements.**
- (1) The inspector shall inspect:

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- (A) the foundation structure including slabs, piers, columns, posts, stem walls;
  - (B) the floor structure including beams, girders, joists, trusses, sill plates, blocking, bracing, drilling, notching and sub floors;
  - (C) the wall structure;
  - (D) the roof structure including rafters, trusses, sheathing, blocking, bracing, drilling, notching and fire stops;
  - (E) the ceiling structure including joists, trusses, blocking, bracing, drilling, notching and fire stops at ceiling penetrations; and,
  - (F) the crawl space, basement and attic moisture conditions and indicators of harmful water penetration or condensation on structural components.
- (2) The inspector is required to:
- (A) describe the foundation, floor structure, roof structure, ceiling structure and wall structure;
  - (B) describe indicators of foundation or structural movement;
  - (C) enter the crawl space and attic to determine the general condition of the components;
  - (D) report the method used to observe the crawl space and attic if the inspector did not enter; and,
  - (E) probe structural components where deterioration is suspected or where clear indications of possible deterioration exist. Probing is not required where no deterioration is visible.
- (3) The inspector is not required to:
- (A) enter a crawl space or any foundation area where the headroom is less than 18 inches, the access opening is less than 18 inches by 24 inches, where the area is excessively wet, or where the inspector reasonably determines the conditions or materials are hazardous to the safety of the inspector;
  - (B) enter an attic space where head room is less than 30 inches, the access opening is less than 18 inches wide by 24 inches long, or where the inspector reasonably determines conditions or materials are hazardous to the safety of the inspector; or
  - (C) perform any invasive or destructive inspection.
- (d) **Exterior inspection requirements.**
- (1) The inspector shall inspect:
- (A) the exterior wall covering, trim, flashings, caulking and protective coatings;
  - (B) all exterior doors and locking devices;
  - (C) overhead garage doors and garage door openers including safety mechanisms;
  - (D) storm windows and doors;
  - (E) attached decks/patios, balconies, stoops, steps, porches, and their associated railings;
  - (F) eaves, soffits and fascias;
  - (G) driveways and walkways leading to dwelling entrances;
  - (H) vegetation, grading, surface drainage, and retaining walls on the property when any of these are likely to have an adverse effect on the structure; and,
  - (I) the primary garage or carport.
- (2) The inspector shall describe:

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- (A) the exterior wall covering;
  - (B) attached decks/patios and balconies;
  - (C) driveways; and,
  - (D) walkways.
- (3) The inspector is not required to inspect:
- (A) screening, shutters, awnings, and similar seasonal accessories;
  - (B) fences;
  - (C) geotechnical or hydrological conditions;
  - (D) recreational facilities;
  - (E) detached structures except the primary garage or carport;
  - (F) seawalls, break-walls, and docks; or,
  - (G) erosion control and earth stabilization measures.
- (e) **Roof system inspection requirements.**
- (1) The inspector shall inspect the:
- (A) roof covering;
  - (B) roof drainage systems;
  - (C) flashings;
  - (D) skylights;
  - (E) chimneys;
  - (F) attic ventilation covers; and,
  - (G) other roof penetrations.
- (2) The inspector shall describe the roof covering.
- (3) The inspector shall report:
- (A) the number of layers of roof covering;
  - (B) asphalt/composition shingles over wood shingles; and,
  - (C) the methods used to inspect the roof.
- (4) The inspector is not required to inspect:
- (A) the interiors of flues or chimneys;
  - (B) antennae; or,
  - (C) other installed accessories.
- (f) **Plumbing system inspection requirements.**
- (1) The inspector shall inspect:
- (A) the interior water supply and distribution systems and components;
  - (B) the connections, flow and drainage of fixtures, and fittings at bathtubs, showers, sinks, toilets and the exterior hose bibs immediately adjacent to the structure;
  - (C) the clothes washing machine faucets and drains, unless a washing machine is in place;
  - (D) drain, waste and vent systems and components;
  - (E) the shower and bathtub enclosure surfaces;
  - (F) the water heating equipment, safety devices/valves, clearances, vent systems, flues and chimneys, gas supply piping, and gas shut off valves;
  - (G) the fuel storage and/or fuel distribution systems; and,
  - (H) the drainage sumps, sump pumps and related piping.
- (2) The Inspector shall describe:
- (A) water supply piping materials;

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- (B) drain, waste, and vent piping materials;
  - (C) the water heating equipment and the energy sources;
  - (D) the location of the main water shut-off, main fuel shut-off and the house sewer cleanout, and
  - (E) the presence of any shade of yellow corrugated stainless steel tubing ("CSST") flexible gas piping observed during the inspection in which the inspector is not required to identify concealed conditions, components not readily accessible, or any other item excepted from inspection pursuant to OAC 158:70-1-3. If any shade of yellow CSST flexible gas piping is observed, the home inspector shall notify the client, in writing, as follows: "Manufacturers believe the product is safer if properly bonded and grounded as required by the manufacturer's installation instructions. Proper bonding and grounding of the product can only be determined by a licensed electrical contractor."
- (3) The inspector is not required to:
- (A) inspect the interiors of flues or chimneys, wells, well pumps, or water storage related equipment, water conditioning systems, solar water heating systems, fire and lawn sprinkler systems, or private waste disposal systems;
  - (B) determine the quantity or quality of the water supply;
  - (C) determine whether water supply and waste disposal are public or private;
  - (D) operate safety valves, shut-off valves or washing machine hose connections, if installed appliances are present; or,
  - (E) use technically exhaustive techniques to determine the water tightness or integrity of shower pans or enclosures.
- (g) **Electrical system inspection requirements.**
- (1) Except as provided in OAC 158:70-1-3(b), the Inspector shall inspect:
- (A) The service drop;
  - (B) the service entrance conductors, cables, and raceways;
  - (C) the service equipment and main disconnects;
  - (D) the service grounding;
  - (E) the interior components of service panels and sub panels by removing the panel dead front covers;
  - (F) the branch circuit conductors, over current protection devices and the compatibility of the conductors with the device;
  - (G) conduit, wiring and splicing including the basement, crawl space and attic;
  - (H) interior and exterior installed lighting fixtures, switches and ceiling fans;
  - (I) receptacles including polarity and grounding, ground fault circuit interrupters and arc fault circuit interrupters; and,
  - (J) exterior electrical components that provide service to a qualifying garage or carport.
- (2) The Inspector shall describe:
- (A) the amperage and voltage rating of the service;
  - (B) the wiring methods;
  - (C) the location of main disconnect(s), distribution panels and sub panels;
  - (D) the presence of solid conductor aluminum branch circuit wiring; and,
  - (E) the absence of smoke detectors.
- (3) The inspector is not required to:



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- (A) inspect remote control devices unless the device is the only control device, alarm systems and components, low voltage wiring systems and components or ancillary wiring systems and components not a part of the primary electrical power distribution system;
  - (B) measure amperage, voltage/voltage drop, or impedance;
  - (C) insert any tool, probe or testing device inside panels or dismantle any electrical device or control other than to remove the dead front covers of the main and sub panels; or,
  - (D) test or operate any over current protection device except ground fault and arc fault circuit interrupters.
- (h) **Heating, Air conditioning and distribution system inspection requirements.**
- (1) Heating systems.
    - (A) The inspector shall open readily openable access panels.
    - (B) The inspector shall inspect:
      - (i) the installed heating equipment including backup heating devices;
      - (ii) controls;
      - (iii) heating operation;
      - (iv) burners and burner chambers in fuel fired heating systems;
      - (v) combustion air provisions;
      - (vi) gas supply piping and shut off valve;
      - (vii) electrical supply provisions and disconnects;
      - (viii) clearances;
      - (ix) vent systems, flues, and chimneys; and,
      - (x) bathroom supplemental heating appliances.
    - (C) The inspector shall describe the heating methods by their distinguishing characteristics and the energy sources.
    - (D) The inspector is not required to:
      - (i) inspect the interiors of flues or chimneys, humidifiers or dehumidifiers, solar space heating systems, and heat exchangers;
      - (ii) measure amperage of electric heating elements.
  - (2) Air conditioning systems.
    - (A) The inspector shall open readily openable access panels.
    - (B) The inspector shall inspect:
      - (i) installed cooling equipment;
      - (ii) cooling operation;
      - (iii) condensate disposal provisions;
      - (iv) the electrical supply provisions and disconnect; and,
      - (v) the refrigerant lines.
    - (C) The inspector shall describe the cooling methods by their distinguishing characteristics and the energy sources.
    - (D) The inspector is not required to:
      - (i) verify sizing or component matching; or,
      - (ii) operate equipment when outdoor temperatures may cause damage to the equipment.
  - (3) Heat and air conditioning distribution systems.
    - (A) The inspector shall inspect:

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- (i) plenums and ducts with associated supports, insulation, supply registers and return grills;
    - (ii) radiators and piping;
    - (iii) filters; and,
    - (iv) main air handlers fans and blowers.
  - (B) The inspector shall describe the type of conditioned air distribution system.
  - (C) The inspector is not required to:
    - (i) inspect electronic air filters, heat reclamation equipment or dampers;
    - (ii) determine duct leakage or calculate duct sizing; or,
    - (iii) determine the uniformity, adequacy, or distribution balance of the heat or cooling supply to habitable rooms.
- (i) **Interior inspection requirements.**
  - (1) The inspector shall inspect:
    - (A) walls, ceilings and floors of the dwelling and garage;
    - (B) steps, stairways, balconies and railings;
    - (C) doors and windows including operation, glazing and thermal pane seals;
    - (D) installed cabinets and countertops; and,
    - (E) indicators of harmful water penetration or condensation on interior and structural components.
  - (2) The inspector shall describe the walls, ceilings and floors.
  - (3) The inspector is not required to inspect:
    - (A) paint, wallpaper, and other finish treatments;
    - (B) carpeting and other floor coverings;
    - (C) window treatments;
    - (D) the operation of interior door locks, latches and devices; or,
    - (E) recreational facilities.
- (j) **Insulation and ventilation inspection requirements.**
  - (1) The inspector shall inspect:
    - (A) insulation and vapor retarders/barriers in unfinished spaces;
    - (B) ventilation of attics and foundation areas;
    - (C) mechanical ventilation systems; and,
    - (D) the clothes dryer exhaust system.
  - (2) The inspector shall describe:
    - (A) the insulation and vapor retarders or barriers in unfinished spaces; and,
    - (B) the absence of insulation in unfinished spaces at conditioned surfaces.
  - (3) The inspector is not required to:
    - (A) disturb insulation or vapor retarders or barriers;
    - (B) operate powered attic vents; or,
    - (C) determine indoor air quality.
- (k) **Appliance inspection requirements.**
  - (1) The inspector shall inspect the:
    - (A) food waste disposal;
    - (B) range/stove, regardless of whether it is an installed or free standing appliance;
    - (C) cook top;
    - (D) oven(s);

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- (E) dishwasher;
  - (F) ventilation equipment or range hoods;
  - (G) installed microwave;
  - (H) trash compactor; and,
  - (I) gas appliance connectors and shut off valves.
- (2) The inspector shall describe the range/stove, cook top and oven(s) by the energy source.
- (3) The inspector is not required to:
- (A) operate appliances in all modes or self-cleaning cycles; or,
  - (B) inspect clocks, timers, thermostats or household appliances not listed in these standards.
- (1) **Fireplaces and solid fuel burning appliances inspection requirements.**
- (1) The inspector shall inspect the:
- (A) hearth and hearth extension;
  - (B) damper;
  - (C) gas supply; and,
  - (D) the firebox, vent systems, flues and chimneys.
- (2) The inspector shall describe:
- (A) the fireplaces;
  - (B) solid fuel burning appliances; and,
  - (C) chimneys.
- (3) The inspector is not required to:
- (A) inspect the interiors of flues or chimneys, the fire screens and doors, the seals and gaskets, the automatic fuel feed devices, the mantels and fireplace surrounds, the combustion make-up air devices, the heat distribution assists whether gravity controlled or fan assisted or free standing solid fuel burning appliances;
  - (B) ignite or extinguish fires;
  - (C) determine draft characteristics; and,
  - (D) move fireplace inserts, stoves or firebox contents.

### **SUBCHAPTER 5. LICENSE REQUIREMENTS, LICENSE FEES, LICENSE PERIOD, RE-EXAMINATION, DISPLAY AND INSURANCE**

#### **158:70-5-2. License fees, license period, re-examination, display, and insurance requirements**

- (a) **Initial license fees.** The following fees apply to home inspection industry licensure:
- (1) Approval fees for schools, instructors and home inspection organizations - \$100.00. If the same home inspection organization conference has multiple instructors, the fee will not exceed \$100.00.
  - (2) Approval fees for educational course content - \$50.00. If the same home inspection organization conference has multiple courses, the fee will not exceed \$100.00.
  - (3) Application for license - \$30.00
  - (4) Licensure for reciprocity - \$50.00

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- (5) Examination fee - \$200.00
  - (6) License fee - \$250.00
  - (7) License renewal - \$150.00
  - (8) License reactivation - \$50.00
- (b) **License period.**
- (1) A license shall expire twelve (12) months after issuance, and may be renewed without penalty for thirty (30) days following expiration.
  - (2) A license which has been expired for more than one (1) year shall not be renewed. An individual may obtain a valid license by successful completion of the appropriate examination and other licensure requirements.
- (c) **Re-examination.** Any applicant who fails an examination must wait thirty (30) days before retaking the home inspection examination.
- (d) **License display.** The state issued license number shall be placed on all letterhead stationery, business cards, bids, estimates and printed advertisements, and shall be included in viewable electronic media advertisements. Decals and yard signs shall display the state issued license number.
- (e) **Personal license display.** All persons subject to these rules shall possess the state issued card any time the person is working. The card shall be shown when requested.
- (f) **Insurance requirements.** Each licensee must maintain insurance coverage and furnish and maintain in effect a certificate of insurance therefore which indicates that the licensee has a comprehensive general liability policy. Limits of liability are to be no less than \$50,000.00 combined single limit for bodily injury and property damage. The certificate of insurance shall provide for thirty (30) days notice to the Home Inspection License Unit, prior to cancellation or material alteration of the required insurance. The Licensee must add the Construction Industries Board as a certificate holder but not as an additional insured and with no additional cost. This is required in order for the Construction Industries Board to be notified in the event such liability policy is cancelled for any reason or expires for non-payment of premiums. Failure to provide the complete information with current insurance certificate or failure to maintain insurance will result in an inactive home inspector's license being temporarily issued until such time as the requirements are met.
- (g) **One time low-income fee waiver.** See OAC 158:1-3-13(c) regarding eligibility on a one-time, one-year fee waiver.

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

#### **158:70-9-1. Qualifications and examination applications**

Applicants for home inspection license examinations must be eighteen (18) years of age or older ~~and be of good moral character~~, and every application must be accompanied by evidence of successful completion of ninety (90) credit hours of home inspection training that is approved pursuant to OAC 158:70-9-3, or its equivalent.

**158:70-9-1.1. Acceptance of Military education, training and experience toward qualification for licensure examination**

(a) **Licensure – ~~post-military service~~.** See OAC 158:1-3-10 for provisions related to the application of substantially equivalent education, training, and experience completed as a member of the Armed Forces or Reserves of the United States, National Guard of any jurisdiction, the Military Reserves of any jurisdiction, or the Naval Militias of any jurisdiction toward satisfying the qualifications for examination and license issuance.

(b) **Military spouse applicant—~~equivalency~~.** See OAC 158:1-3-10 for provisions related to issuance of ~~an equivalent~~ a license in an equivalent category for the spouse of an active-duty member of the Armed Forces or Reserves of the United States.

**SUBCHAPTER 11. LICENSE REVOCATION AND SUSPENSION AND ADDITIONAL PROHIBITED ACTS**

**158:70-11-2. Additional prohibited acts**

(a) No person, entity, or firm may engage in or perform home inspection work without first obtaining a license or registration pursuant to these Rules.

(b) No person shall offer to engage in work as a home inspector during the period his or her license is suspended or revoked.

(c) No employing home inspection firm shall employ or use an unlicensed home inspector to perform home inspection work.

(d) No person, entity, or firm may transfer a license or registration.

(e) No home inspector, licensed pursuant to this Chapter, shall enter into an agreement for the use of his or her license with any firm or person who is, or has been adjudicated to be, in violation of any provision of the Act, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Board.

(f) No person shall make a materially false or fraudulent statement in an application for license or for approval of continuing education, engage in cheating, or otherwise commit an act in violation of OAC 158:70-9-2(g).

(g) No person shall falsify or fail to disclose in a home inspection report a material defect.

(h) No person shall accept inspection assignments when the employment itself is contingent upon reporting a predetermined estimate, analysis or opinion.

(i) No person shall accept inspection assignments when the fee to be paid is contingent upon the opinion, the conclusion, analysis, or report reached, or upon the consequences resulting from such assignments.

(j) No person shall perform a home inspection upon a home, or any part thereof, where the home inspector has solicited or performed any work or repair service therein upon a system or component described in Subchapter 1 of this Chapter, within the previous thirty (30) days. If the person performing the home inspection has performed such work within the previous one-hundred eighty (180) days, such prior work must be disclosed to the client.

(k) No person shall solicit or perform work or repair services upon a home, or any part thereof, that the home inspector has inspected for one (1) year after the date of the inspection.

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- (l) No person shall knowingly accept compensation from more than one client for a single home inspection, unless the home inspector has informed all clients who are paying a fee for that home inspection that such compensation is sought or anticipated.
- (m) Unless upon demand in writing by the Board, a law enforcement agency, or by order of a court of competent jurisdiction, no person shall disclose the results of a home inspection to any person other than the client without the written consent of the client.
- (n) No person shall fail to disclose to the client any conflict of interest of which the inspector knows or should have known that may adversely affect the client. Based upon the potentially adverse affect to the home inspector's ability to produce an unbiased report, some circumstances or conditions are presumed to adversely affect the client and must be disclosed to the client in writing prior to the inspection. These include, but are not limited to, the following:
- (1) Situations where the payment of remuneration or other consideration is made by the home inspector to a third party and representing a reward or compensation to the third party for the home inspector receiving inspection employment.
  - (2) Situations where the payment of remuneration or other consideration is received by the home inspector from a third party and representing a reward or compensation for the home inspector recommending services or products to the client or other persons having an interest in the property.
  - (3) In those cases where the client is the buyer of real property, situations where the home inspector has had some prior connection, relationship or association with the seller, his or her assigns or family members related to the seller within the second degree.
  - (4) Situations where prior reports or inspections have been made or conducted upon any system or component of the real property that the home inspector has agreed to inspect.
- (o) No person shall fail to submit a written home inspection report within a reasonable time as determined by the Board to the client after compensation has been paid to the home inspector.
- (p) A home inspector is prohibited from inspecting a home when an immediate family member is a realtor involved in the transaction.

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

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions

158:70-1-3 [AMENDED]

Subchapter 5. License Requirements, License Fees, License Period, Re-Examination, Display and Insurance

158:70-5-2 [AMENDED]

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

158:70-9-1 [AMENDED]

158:70-9-1.1 [AMENDED]

Subchapter 11. License Revocation and Suspension and Additional Prohibited Acts

158:70-11-2 [AMENDED]

**SUMMARY:**

The proposed amendments to 158:70-1-3 are to clarify the standards of practice for home inspectors. The proposed amendments to 158:70-5-2 are for clarification and also to provide a one-time low income fee waiver related to HB2933. The proposed amendment to 158:70-9-1 is a result of HB1373. The proposed amendments to 158:70-9-1.1 are related to SB670 and provide a fee waiver for active duty military and their spouses. The proposed amendments to 158:70-11-2 are for clarification and also include an ethical provision.

**AUTHORITY:**

Construction Industries Board; 59 O.S. §§ 858-625, 858-627, 1000.4, and 1000.5

**COMMENT PERIOD:**

Written and oral comments will be accepted until 4:30 p.m. on January 17, 2020, at the following address: Construction Industries Board, ATTN: Administrative Rules Division, 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 29, 2020, at the monthly meeting of the Construction Industries Board which will be held in the Construction Industries Board 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. See "Additional Information" section below.

**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 the Administrative Rules Division through the close of the comment period on January 17, 2020, 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](http://www.cib.ok.gov).

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available beginning December 31, 2019, at the address listed above for obtaining copies of the proposed rules.

**CONTACT PERSON:**

Stephanie Brown, Board Secretary/Executive Assistant, 405-521-6550

**ADDITIONAL INFORMATION:**

If the monthly meeting of the Construction Industries Board scheduled for Wednesday, January 29, 2020, cannot be held due to inclement weather or lack of a quorum, the Public Hearing that would have occurred January 29, 2020, at that monthly meeting of the Construction Industries Board will be held instead at the monthly meeting scheduled for Wednesday, February 12, 2020, at 1:30 p.m., in the Construction Industries Board 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.