



Virginia Department of Planning and Budget **Economic Impact Analysis**

18 VAC 15-40 Home Inspector Licensing Regulations
Department of Professional and Occupational Regulation
Town Hall Action/Stage: 5658 / 9548
April 25, 2022

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). The analysis presented below represents DPB's best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation

The Virginia Board for Asbestos, Lead, and Home Inspectors (Board) proposes numerous amendments to 18 VAC 15-40 *Home Inspector Licensing Regulations*, including requirements for: initial licensure, license renewal, information to be reported the Board, contracts, home inspection reports, licensee's responsibilities, grounds for disciplinary action, prohibited acts, and extensive clarifying language.

Estimated Benefits and Costs

The following are sections of the regulation where proposed amendments are likely to have impact.

Section 30: General requirements for licensure

The current regulation requires that each applicant shall disclose all misdemeanor convictions involving moral turpitude, sexual offense, non-marijuana drug distribution, or

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

physical injury within five years of the date of the application. The proposed regulation would broaden this to require the disclosure of all misdemeanor convictions (except marijuana convictions), while reducing the timeframe to three years (rather than the current five years) from the date of the application. Since the applicant would be required to disclose all misdemeanor convictions (excluding marijuana convictions) during the three year period prior to application, it potentially covers more varieties of misdemeanors. This additional information may be useful in judging the applicant's fitness for licensure and would make it easier to determine which criminal convictions should or should not be disclosed. On the other hand, it may require some applicants to do some additional reporting. Reducing the timeframe to only require disclosure of misdemeanor convictions within three years of the application, instead of the current five years, would help reduce barriers to licensure for individuals with a prior criminal history. The Board believes the most recent three years are the most relevant.²

The current regulation also requires additional reporting pertaining to licensure status, stating that:

The applicant shall report any suspension, revocation, or surrender of a license, certification, or registration in connection with a disciplinary action or a license, certification, or registration that has been the subject of discipline in any jurisdiction prior to applying for licensure. The board, in its discretion, may deny licensure to any applicant based on prior suspensions, revocations, or surrender of licenses based on disciplinary action by any jurisdiction.

The Board proposes to also require that the applicant report when another jurisdiction has imposed a monetary penalty or a required the applicant to take remedial education or other corrective action. Additionally, the second quoted sentence would be amended to state that "The board, in its discretion, may deny licensure to any applicant for any prior action taken by any board or administrative body in any jurisdiction." The proposed new language provides the Board with greater relevant information upon which to make licensure denial decisions.

Section 32: Qualifications for licensure

Under the current regulation, an applicant for licensure as a home inspector must pass the National Home Inspector Examination provided by the Examination Board of Professional

² Source: DPOR

Home Inspectors, and also furnish documentation acceptable to the Board that one of the five qualification methods for licensure listed in Table 1 below has been met.

Table 1

Board-approved pre-license education course contact hours	Experience
35	Completion of 100 home inspections prior to July 1, 2017
35	Completion of 50 home inspections under the direct supervision of a home inspector ³
70	Completion of 50 home inspections prior to July 1, 2017
70	Completion of 25 home inspections under the direct supervision of a home inspector ⁴
None	Verification of 10 years' experience as a home inspector prior to July 1, 2017, with a minimum of 250 home inspections completed during such time period

No more than half of the required pre-license education course contact hours may be completed using distance or online education technology.

For the proposed regulation, the applicant for licensure as a home inspector must still pass the National Home Inspector Examination provided by the Examination Board of Professional Home Inspectors; but instead of meeting one of the five qualification methods for licensure listed in Table 1, the applicant must instead acquire a minimum of 20 qualifying points from a combination of the following education and experience categories listed in Tables 2 and 3, with a minimum of five points from each of Tables 2 and 3.

Table 2: Education Qualifying Points

Points Assigned	Education Description	Max. Allowable Points
5	Successfully completed a 3-credit hour minimum class with a passing grade in home inspection from an accredited college or university.	5

³ The direct supervision of a home inspector must be provided by an individual who was properly licensed or certified by the Board during the applicable time period.

⁴ Ibid

1	Successfully completed a 3-credit hour minimum class with a passing grade in construction, remodeling, engineering, architecture, building design, building technology, or real estate from an accredited college or university.	3
1	Successfully completed a 4-hour course specific to home inspection contracts, home inspection reports, or topics covered on the Board-approved examination.	3
5	Successfully completed a minimum 35-hour pre-license education course approved by the Board.	5
10	Successfully completed a minimum 70-hour pre-license education course approved by the Board	10

Table 3: Experience Qualifying Points

Points Assigned	Experience Description	Max. Allowable Points
2	One month of full-time qualifying experience. ⁵	12
2	Completion of 10 home inspections under the direct supervision of a home inspector or without supervision if lawfully conducted as authorized under the laws of the applicable jurisdiction.	12

⁵ In order to be acceptable, qualifying experience must meet all of the following:

1. Experience must be verified by one or more of the following: licensed home inspector; qualified individual or responsible manager of a licensed contractor; or any combination of at least three licensed real estate professionals or clients.

2. An applicant's experience must have been gained by assisting a properly licensed or certified home inspector, as applicable, and under such home inspector's direct supervision; or through the performance of home inspections as authorized under the laws of the applicable jurisdiction.

3. For the purposes of this part, experience requirements are expressed in terms of calendar periods of full-time employment.

a. A month of full-time qualifying experience is a minimum of 146 hours during a one-month period or a minimum of 18 workdays in a one-month period. More than 146 hours or 18 workdays during a one-month period will not be considered as more than one month of full-time employment.

b. Partial credit may be given for actual hours of qualifying experience if the applicant's experience was gained working less than full time.

1	Membership in a home inspector trade or professional association. ⁶	2
2	One year teaching at an accredited college or university, trade school, or private business for monetary compensation in construction, remodeling, engineering, architecture, building design, building technology, real estate, or home inspections.	6
2	The qualified individual of a contractor license issued pursuant to the Code of Virginia for one or more of the following classifications or specialty services: 1. Residential Building Contractors, 2. Home Improvement Contracting, 3. Commercial Building Contractors	2
1	The qualified individual of a contractor license issued pursuant to the Code of Virginia for one or more of the following classifications: 1. Electrical Contractors, 2. HVAC Contractors, 3. Plumbing Contractors	3
2	Licensed architect or professional engineer.	2
2	Building code official certified pursuant to the Department of Housing and Community Development Virginia Certification Standards.	2

The proposed regulation does not limit the amount of pre-license education course contact hours that may be completed using distance or online education technology.

According to DPOR, it is the Board's intent to increase the variety of methods by which one can qualify for home inspector license. In particular, the proposed regulation includes methods that are less reliant on supervised inspections since there have been reports of difficulties finding licensees willing to provide supervised training. Further, the removal of the limitation on the amount of pre-license education course contact hours that may be completed using distance or online education technology reduces the practical burden on receiving the relevant education.

⁶ The current membership fee for the International Association of Certified Home Inspectors (InterNACHI) is \$499 per year. The current membership fee for the American Society of Home Inspectors (ASHI) is \$449 per year. The current membership fee for the Virginia Association of Real Estate Inspectors (VAREI) is \$100 per year.

As can be seen in Table 4, the burden for some individuals who would seek to qualify under the current methods (Board-approved pre-license education course contact hours and home inspections under the direct supervision of a home inspector) increases under the proposed point system.

Table 4: Comparison of Qualifying with Ed. Contact Hours and Supervised Home Inspections

Current Regulation	Proposed Regulation
<ul style="list-style-type: none"> • 70 education course contact hours; • Completion of 25 home inspections under the direct supervision of a home inspector. 	<ul style="list-style-type: none"> • 70 education course contact hours; • Completion of 50 home inspections under the direct supervision of a home inspector or without supervision if lawfully conducted as authorized under the laws of the applicable jurisdiction.
<ul style="list-style-type: none"> • 35 education course contact hours; • Completion of 50 home inspections under the direct supervision of a home inspector. 	<ul style="list-style-type: none"> • 35 education course contact hours; • Completion of 60 home inspections under the direct supervision of a home inspector or without supervision if lawfully conducted as authorized under the laws of the applicable jurisdiction. • Some other activity or activities to earn an additional three qualification points (for example, completing three 4-hour course specific to home inspection contracts, home inspection reports, or topics covered on the Board-approved examination).

For a candidate seeking to qualify for licensure from a 70 contact-hour course and home inspections under the direct supervision of a home inspector, the proposed regulation would require 25 additional home inspections.⁷ The proposed regulation does not permit a candidate to

⁷ Table 2 shows that the 70 contact-hour course earns ten points under the proposal. Table 3 shows that 25 home inspections only earns four points under the proposal, totaling only 14 points. In order to earn the needed ten points to go with the ten education points (to produce the required total of 20 points), the candidate would have to do 50 home inspections.

qualify for licensure from only a 35 contact-hour course and home inspections under the direct supervision of a home inspector.⁸

DPOR has indicated that it was not the Board's intention to increase the burden for individuals who would qualify under the current rules. The agency anticipates that the proposed point system would be revised as follows at the next Board meeting: 1) the required number of points would be lowered to 15, and 2) the points assigned for home inspections under the direct supervision of a home inspector or without supervision if lawfully conducted as authorized under the laws of the applicable jurisdiction would become one point for each five inspections. These changes would allow someone to qualify under the proposed regulation by meeting the elements of either method described for the current regulation in the first column of Table 4. Thus, if the point system is so revised, it would not add burden to potential candidates.

Section 73: Acceptable topics for continuing professional education

Each licensee must complete 16 contact hours of continuing professional education (CPE) during each two-year license renewal cycle. The Board proposes to add the following to the list of topics that are acceptable for continuing professional education: completion of training required to maintain credentials, howsoever denominated, related to home inspection services, including asbestos inspection, lead inspection, and radon testing. There would be a limit of four contact hours of CPE for such training per cycle. This could somewhat reduce burden for licensees and does appear to be relevant to maintaining their professional expertise.

Section 80: Procedures for renewal

When renewing a license, the licensee attests to compliance with CPE requirements. However, DPOR audits have shown that some licensees have inaccurately reported compliance. The Board proposes to require that as part of the licensure renewal process, the licensee provide proof of completion of CPE. The regulation already requires that each licensee maintain evidence of the satisfactory completion of CPE for at least three years following the end of the license renewal cycle for which the CPE was taken. Thus, the proposal to present this evidence at

⁸ Table 2 shows that the 35 contact-hour course earns five points under the proposal. Table 3 shows that the maximum number of points that can be earned from home inspections is 12. Thus, the required total of 20 points for licensure qualification cannot be achieved from only a 35 contact-hour course and home inspections under the direct supervision of a home inspector.

the time of renewal should not be a substantial additional burden, and would help enable greater assurance of compliance.

Section 120: Home inspection contract

The current regulation specifies that for the protection of both the client and the licensee, both parties must sign a legible, written contract clearly specifying the terms, conditions, and limitations and exclusions of the work to be performed. The Board proposes to add:

Prior to the commencement of work or acceptance of payments, the contract must be signed by both the client, or the client's authorized representative, and the licensee. The licensee must make prompt delivery to the client, or client's authorized representative, a fully executed copy of the contract in compliance with this section before work begins. Any modification to the contract, which changes the cost, scope of work to be performed, or estimated completion date, must be in writing and signed by all parties.

This may help minimize potential disputes and misunderstandings

Section 130: Home inspection report

The current regulation requires that the home inspection report contains the licensee's telephone number. The proposal amends the requirement to: telephone number, email address, or other contact information, as applicable. This is beneficial in that it allows the licensee to provide the best means of contact for their situation.

The inspection report would be required to note the presence or absence of carbon monoxide detectors, in addition to the current requirement for smoke detectors. This has become a common concern for homeowners and is a beneficial addition.

Section 147: Licensee's responsibility

The Board proposes this new section, which in its entirety is as follows:

A. The primary obligation of the licensee is to the public. If the licensee's judgment is overruled and not adhered to when performing a home inspection or advising appropriate parties of the circumstances of a substantial threat to the public health, safety, or welfare, the licensee must inform the employer or client, as applicable, of the possible consequences and notify appropriate authorities.

B. The licensee must not knowingly associate in a business venture with, or permit the use of the licensee's name by, any person or firm where there is reason

to believe that person or firm is engaging in activity of a fraudulent or dishonest nature or is violating any law or regulation of the board.

DPOR believes that part A may make it more likely that licensees conduct themselves appropriately when performing home inspections. Additionally, the agency believes that when it receives a complaint against a licensee, this standard may be useful to address the licensee's conduct when warranted by the facts of the case. As for notifying appropriate authorities, one scenario where this standard might come into play would be an inspection that reveals a significant safety issue such as a deck or balcony that is failing (i.e. potential for collapse, injury or death to persons). Since the home inspector has an obligation to the public, the home inspector would inform the client of the issue, and should notify the local building official. A similar scenario would be a situation where the home being inspected has a defect in the electrical system that could cause a fire. To the extent that adding the text in part A makes it more likely that home inspectors make such notifications, it may improve public safety.

DPOR believes adding part B could help to address situations where a home inspection company is engaged in fraudulent or dishonest activity, or is knowingly failing to adhere to the standards for home inspections; causing a harm to the public. Home inspection companies are not required to be licensed, only individual home inspectors. By establishing this standard, a home inspector has less room to justify their actions by "blaming" the company.

Section 150: Grounds for disciplinary action

The Board proposes to add violating provisions of "the regulations of the board" to grounds for disciplinary action. According to the agency, the revised language permits the Board to take action against a home inspector licensee in instances where the licensee may have violated regulations related to other disciplines (e.g. asbestos or lead) falling under the Board's jurisdiction. This may be beneficial in determining appropriate status for a licensee who participated in misconduct.

Section 152: Notice of adverse action

Among other items, this section requires that licensees notify the Board of conviction, finding of guilt, or plea of guilty, regardless of adjudication or deferred adjudication, in any jurisdiction of the United States of any misdemeanor involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury or relating to performing a home inspection.

Similar to Section 30, the proposal is to require the applicant to notify the Board of all misdemeanor convictions except marijuana convictions. Since the applicant would be required to disclose all misdemeanor convictions, excluding marijuana convictions, it would be easier to determine which criminal convictions should or should not be disclosed. On the other hand, it may require some applicants to do some additional reporting. It also potentially covers more varieties of misdemeanors, which may be useful in judging the applicant's fitness for licensure.

Section 155: Prohibited acts

The current list of prohibited acts includes "Obtaining or attempting to obtain a license by false or fraudulent representation." The Board proposes to add "or maintaining, renewing, or reinstating a license by false or fraudulent representation; or furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating, or maintaining a license." According to DPOR, the current subdivision is interpreted as being applicable to only the initial obtaining of a license, and would not be applicable to cases where a licensee has renewed or reinstated a license falsely. One area where there have been demonstrated instances of renewal by false representation is in completion of CPE. There have been cases where a licensee has renewed a license by representing the licensee has completed CPE, when in fact the licensee has not. This revised subdivision would better enable the agency to charge a violation under the prohibited acts for such conduct.

Businesses and Other Entities Affected

The proposed regulation affects the 1,318 licensed home inspectors⁹ in the Commonwealth, as well potential applicants for licensure, clients, and training providers.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.¹⁰ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, the burden for some individuals who would seek to qualify under the

⁹ Source: DPOR

¹⁰ Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

current methods (Board-approved pre-license education course contact hours and home inspections under the direct supervision of a home inspector) increases under the proposed point system. Thus, an adverse impact is indicated. If the proposed point system is revised as described above at the next Board meeting, the adverse impact would no longer be indicated.

Small Businesses¹¹ Affected:¹²

The proposed amendments do not appear to adversely affect small businesses.

Localities¹³ Affected¹⁴

The proposed amendments neither appear to disproportionately affect particularly localities, nor substantively affect costs for local governments.

Projected Impact on Employment

The proposed amendments do not appear to substantively affect total employment.

Effects on the Use and Value of Private Property

The proposed amendments do not substantively affect the use and value of private property. The proposed amendments do not substantively affect real estate development costs.

¹¹ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

¹² If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

¹³ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹⁴ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.