

Concise Explanatory Statement

Rhode Island Government Register

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, following is a concise explanatory statement:

AGENCY: Rhode Island Department of Business Regulation

DIVISION: Building, Design, and Fire Professionals

RULE IDENTIFIER: 440-RICR-10-00-00-5

REGULATION TITLE: **Rules and Regulations for Home Inspectors and Associate Home Inspectors**

RULEMAKING ACTION: Full Rulemaking - Amendment

REASON FOR RULEMAKING:

To amend and update the administration and enforcement requirements for contractors in accordance RI Gen Laws Chapter 5-65.1, entitled Home Inspectors

CHANGES TO TEXT OF THE RULE:

A. Summary of Post-Comment Changes

There are no post-comment changes to this rule.

B. Summary of Comments Not Resulting in Regulatory Language Changes

1. *Numerous comments were received that were based on the application of the proposed rules to individual situations, and not commentary on the rules themselves. As each of these questions would require a fact determinative response, it is impossible for the Department to provide any responses. Will home inspector licensees be permitted perform inspections for pests as a service, Included or extra? (Not treatment) many do it now. I get if it's not required if guys are not qualified. there's a comment that states inspectors are prohibited from determining cost of repairs which is fine, are we also prohibited from giving an approximate cost of somebody says for example about how much does a roof cost? It's not really a full determination, would be a disclaimer that we are not providing a quote but a ballpark figure?*
2. *We also perform commercial property inspections, I assume this conveys to that arena also?*

Per R.I. Gen Laws § 5-65.1-2, these rules are applicable only to residential buildings.

3. *A provision should be present limiting the liability of the licensed inspector to the client. Sometimes the report gets shared with a third-party and we should not be held accountable to somebody that we did not perform the inspection for. Many times the report is share and it is outdated by the time the next person uses it, they should not is it*

Limiting liability in what amounts to a contractual provision between private parties is beyond the scope of this rule. As such, the Department declines to make any changes.

4. *Certified Building Officials should be exempt from exam requirement. Since Building Officials are certified to inspect all portions of dwellings.*

R.I. Gen Law Chapter 5-65.1 does not contain a provision for building official to bypass the licensing requirements. As such, the Department declines to make any changes.

5. *Several comments were received that pertained to the requirements for licensing, particularly the number of home inspection required to be performed prior to licensure, and why nationally recognized certifications cannot be applied to the experience requirement.*

The Department took into consideration these comments as they are well reasoned and present a valid concern. However, at this time, the Department declines to make any changes because the pre-licensure experience requirements are set forth in R.I. Gen. Laws § 5-65.1-4 and cannot be changed administratively until the legislature amends the statute.

6. *Regarding every home inspection must have a contract signed, what if the client is not present and hiring you from out of state? I assume electronics signatures on home inspection agreements will suffice.*

Yes, any legally binding form of a signature would be allowable.

7. *Please define (add to definitions) 'comprehensible' as used in 5.24.5 Scope of the Home Inspection under D.3.b b. The operation of a comprehensible sample of all readily accessible ground fault circuit interrupters.*

In consideration of this comment, the Department declines to make any changes to the rule. The word “comprehensible” does not appear to fit in the way the commenter suggests. The proposed rule requires a “representative” sample, and this is the standard the Board has chosen to apply.

8. *Regarding posting licensure information, I assume there will be a grace period to use up consumables that does not have a license information present additionally there should be a grace period for other advertising such as vehicle lettering, business cards, letterhead, altering websites etc... Some of the stuff can be costly, a vehicle wrap on my vehicle costs close to \$5000.*

440-RICR-00-00-5.7 establishes a grace period that shall run until April 1, 2020 before enforcement activities shall commence.

9. *On the application PDF for home inspectors, under license type it currently says ' Reciprocity (1) Holds a valid license or has previously held a valid license issued by another state or possession of the United States or District of Columbia, which has standards that are substantially equivalent as determined by the Board. (Reciprocity will not be granted to in state residents)' What is the reason that an inspector who lives in Rhode Island would not receive reciprocity while an inspector who lives in say MA or CT would be able receive reciprocity if they are both licensed in the same state? Is there any reason as to why an out of state inspector would receive additional benefits from the state? Is there a reason a local inspector who pays income tax to Rhode Island, pays real estate tax to Rhode Island, who pays car tax to Rhode Island, who pays car registration fees to Rhode Island, etc would get discriminated against in Rhode Island?*

It is unclear as to what application this commenter is referring to. To date, no application has been published. However, a RI resident who holds meets the requirements for reciprocity will be granted reciprocity the same as one who lives out of state.

REGULATORY ANALYSIS:

This regulation does not impact small business. The societal benefit of updating this regulation is that the changes are specific to those contractors who are enumerated in R.I. Gen. Laws Chapter 5-65. In conjunction with 440-RICR-10-00-1, the overall regulatory scheme is now more clearly and concisely spelled out.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.