

Home Inspector Regulations: 18VAC15-40-10
Proposed Changes as part of the Regulatory Review
As of April 3, 2023

18VAC15-40-10 Definitions

Part I

General

A. Section 54.1-500 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:

"Board"

"Home inspection"

"Home inspector"

"Person"

"Residential building"

B. Section 54.1-517.2:1 of the Code of Virginia provides definitions of the following terms and phrases as used in 18VAC15-40-130:

"Bonding"

"Corrugated stainless steel tubing"

"Grounding"

C. The following words and terms when used in this chapter shall have the following meanings unless a different meaning is provided or is plainly required by the context:

"Address of record" means the mailing address designated by the licensee to receive notices and correspondence from the board.

"Adjacent" means adjoining or within three feet of the residential building and that may affect the residential building.

"Applicant" means an individual who has submitted an application for licensure.

"Application" means a completed, board-prescribed form submitted with the appropriate fee and other required documentation.

"Client" means a person who engages the services of a home inspector for a home inspection.

"Compensation" means the receipt of monetary payment or other valuable consideration for services rendered.

~~"Component" means a part of a system.~~

"Contact hour" means 50 minutes of participation in a structured training activity.

"Course of construction inspection" means one or more inspections conducted during the construction of a new residential structure.

"CPE" means continuing professional education.

"Department" means the Department of Professional and Occupational Regulation.

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

"Direct supervision" means a licensed home inspector being physically present on the premises at all times and the same is at all times responsible for compliance with this chapter.

"Financial interest" means financial benefit accruing to an individual or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership exceeds 3.0% of the total equity of the business; (ii) annual gross income that exceeds or may be reasonably anticipated to exceed \$1,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, forgiveness of debt, or benefits from the use of property, or any combination of it, paid or provided by a **business person** that exceeds or may be reasonably expected to exceed \$1,000 annually; (iv) ownership of real or personal property if the interest exceeds \$1,000 in value and excluding ownership in business, income, salary, other compensation, fringe benefits, or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds 3.0% of the asset value of the business; or (vi) an option for ownership of a business, real property, or personal property if the ownership interest will consist of clause (i) or (iv) of this definition.

"Fireplace" means an ~~interior fire-resistant masonry permanent or prefabricated fixture that can be used to burn fuel and is either vented or unvented~~ assembly consisting of a hearth and fire chamber of noncombustible material provided with a chimney, for use with solid fuel.

"Foundation" means the element of a structure that connects to the ground and transfers loads from the structure to the ground. Foundations may be shallow or deep.

"Licensee" means a home inspector as defined in Chapter 5 (§ 54.1-500 et seq.) of Title 54.1 of the Code of Virginia.

"Licensure" means a method of regulation whereby the Commonwealth, through the issuance of a license, authorizes a person possessing the character and minimum skills to engage in the practice of a profession or occupation that is unlawful to practice without such license.

"New residential structure" or "NRS" means a residential structure for which the first conveyance of record title to a purchaser has not occurred or the purchaser has not taken possession, whichever occurs later.

"NRS specialty" means a designation granted by the board to a home inspector that authorizes such **individual licensee** to conduct **a home inspections inspection** on **any a** new residential structure.

"Outbuilding" means any structure on the property that is more than three feet from the residential building and that may affect the residential building.

~~"Prelicense education course" means an instruction program approved by the board and is one of the requirements for licensure effective July 1, 2017.~~

"Qualifying experience" means the experience used by a home inspector applicant to qualify for licensure.

"Readily accessible" means available for access without requiring moving or removing of any obstacles.

"Reinstatement" means the process and requirements through which an expired license can be made valid without the licensee having to apply as a new applicant.

"Renewal" means the process and requirements for periodically approving the continuance of a license.

"Residential structure" means a structure consisting of no more than two dwelling units or a townhouse.

"Solid fuel burning appliances" means ~~a hearth and fire chamber or similarly prepared place in which a fire may be built and that is built in conjunction with a chimney, or a listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction~~ chimney-connected devices that burn solid fuel for purposes of heating, cooking, or both. Such appliances include wood stoves, fireplace wood burning inserts, wood pellet burning appliances or similar solid fuel burning devices.

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

"Virginia Residential Code" means the provisions of the Virginia Construction Code (Part I (13VAC5-63-10 et seq.) of 13VAC5-63) applicable to R-5 residential structures and that includes provisions of the International Residential Code as amended by the Board of Housing and Community Development.

18VAC15-40-20 Necessity for licensure

A. It shall be unlawful for any individual who does not possess a license as a home inspector issued by the board to perform a home inspection ~~for compensation on a residential building.~~

B. A home inspection on a new residential structure, to include any course of construction inspection, shall only be conducted by a home inspector with the NRS specialty ~~and who has completed a training module on the Virginia Residential Code.~~

C. An individual who does not hold a license as a home inspector and who is only conducting inspections of a component or system of a residential building is not considered to be performing a home inspection.

18VAC15-40-25 Application procedures

Part II

Entry

A. All applicants seeking licensure ~~shall~~ must submit an application with the appropriate fee specified in 18VAC15-40-50. Application ~~shall~~ will be made on forms provided by the board or its agent.

1. By submitting the application to the department, the applicant certifies that the applicant has read and understands the applicable statutes and the board's regulations.
 2. The receipt of an application and the deposit of fees by the board do not indicate approval of the application by the board.
- B. The board may make further inquiries and investigations with respect to the applicant's qualifications to confirm or amplify information supplied. All applications ~~shall~~ must be completed in accordance with the instructions contained in this section and on the application. Applications will not be considered complete until all required documents are received by the board.
- C. The applicant will be notified within 30 days of the board's receipt of an initial application if the application is incomplete. An individual who fails to complete the application process within 12 months of receipt of the application in the board's office must submit a new application.
- D. The applicant ~~shall~~ must immediately report all changes in information supplied with the application, if applicable, prior to issuance of the license or expiration of the application.

18VAC15-40-30 General requirements for licensure

- A. In addition to the provisions of 18VAC15-40-32, every applicant for a home inspector license ~~shall~~ must meet the requirements provided in this section.
- B. The applicant ~~shall~~ must be at least 18 years old.
- C. The applicant ~~shall~~ must provide a mailing address, which ~~shall~~ will serve as the address of record. A post office box is only acceptable as the address of record when a physical address is also provided.
- D. In accordance with § 54.1-204 of the Code of Virginia, each applicant ~~shall~~ must disclose the following information:
1. All misdemeanor convictions ~~involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury~~ , except marijuana convictions, within ~~five~~ three years of the date of the application; and
 2. All felony convictions ~~during the applicant's lifetime~~.
- ~~Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The record of conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt.~~ The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.
- E. The applicant for licensure ~~shall~~ must be in compliance with the standards of conduct and practice set forth in Part V (18VAC15-40-140 et seq.) of this chapter at the time of application, while the application is under review by the board, and at all times when the license is in effect.
- F. The applicant ~~shall~~ must 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~~ action taken by any board or administrative body in any jurisdiction against a professional or occupational license, certification, or registration issued to the applicant, to

include any suspension, revocation, or surrender of a license, certification, or registration, imposition of a monetary penalty, or requirement to take remedial education or other corrective action. 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~~ for any prior action taken by any board or administrative body in any jurisdiction. The applicant has the right to request further review of any such action by the board under the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

G. The applicant for licensure ~~shall~~ must submit evidence satisfactory to the board of having obtained general liability insurance with minimum limits of \$250,000 per occurrence. A business liability insurance policy or a commercial general liability insurance policy with minimum limits of \$250,000 may be considered to meet such requirement, so long as the applicant is listed as an additional insured. If for any reason the board cannot reasonably ensure that the applicant is sufficiently covered in accordance with this subsection, the board may require that requisite coverage be obtained in the name of the applicant. Proof of such insurance policy must be submitted in order to obtain the license.

18VAC15-40-32 Qualifications for licensure

A. Qualifications for licensure. An applicant for licensure as a home inspector ~~shall~~ must furnish documentation acceptable to the board ~~that one of the qualifications for licensure in Table 1 has been met.~~ of the following:

TABLE 1			
	Board-approved prelicense education course-contact hours	Experience	Passed the board-approved examination
1.	35	Completion of 100 home inspections prior to July 1, 2017	Yes
2.	35	Completion of 50 home inspections under the direct supervision of a home inspector	Yes
3.	70	Completion of 50 home inspections prior to July 1, 2017	Yes
4.	70	Completion of 25 home inspections under the direct supervision of a home inspector	Yes
5.	None	Verification of 10 years' experience as a home inspector prior to July 1, 2017, with a minimum of 250 home	Yes

		inspections completed during such time period	

~~B. Prelicense education courses must be approved by the board pursuant to Part VI (18VAC15-40-120 et seq.) of this chapter. No more than half of the required hours may be completed using distance or online education technology.~~

~~C. Verification of home inspections completed under 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.~~

~~D. The National Home Inspector Examination provided by the Examination Board of Professional Home Inspectors is the board approved examination pursuant to § 54.1-517.2 A 2 c of the Code of Virginia.~~

1. The applicant has passed a board-approved examination. The National Home Inspector Examination provided by the Examination Board of Professional Home Inspectors is the board-approved examination pursuant to § 54.1-517.2 A 2 c of the Code of Virginia.

2. A minimum of 20 qualifying points from a combination of the following education and experience, with a minimum of five (5) points from each category in Tables 1 and 2. An applicant cannot be assigned points from multiple areas in each table for the same activity for which credit is being sought. Except as provided in Tables 1 and 2, an applicant cannot be assigned points multiple times for the same activity for which credit is being sought.

<u>TABLE 1</u>		
<u>Qualifying Points Table: Education Category</u>		
<u>Points Assigned</u>	<u>Education Description</u>	<u>Maximum Allowable Points</u>
<u>5</u>	<u>Successfully completed a 3-credit hour minimum class with a passing grade in home inspection from an accredited college or university pursuant to 18VAC15-40-32 C.</u>	<u>5</u>
<u>1</u>	<u>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 pursuant to 18VAC15-40-32 C.</u>	<u>3</u>
<u>1</u>	<u>Successfully completed a 4-hour course specific to home inspection contracts, home inspection reports, or topics covered on the board-approved examination.</u>	<u>3</u>

<u>5</u>	<u>Successfully completed a minimum 35-hour pre-license education course approved by the Board in accordance with Part VI (18VAC15-40-200 et seq.) of this chapter.</u>	<u>5</u>
<u>10</u>	<u>Successfully completed a minimum 70-hour pre-license education course approved by the Board in accordance with Part VI (18VAC15-40-200 et seq.) of this chapter.</u>	<u>10</u>

TABLE 2
Qualifying Points Table: Experience Category

<u>Points Assigned</u>	<u>Experience Description</u>	<u>Maximum Allowable Points</u>
<u>2</u>	<u>One month of full-time qualifying experience pursuant to 18VAC15-40-32 B.</u>	<u>12</u>
<u>2</u>	<u>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.</u>	<u>12</u>
<u>1</u>	<u>Membership in a home inspector trade or professional association.</u>	<u>2</u>
<u>2</u>	<u>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.</u>	<u>6</u>
<u>2</u>	<u>The qualified individual of a contractor license issued pursuant to Chapter 11 of Title 54.1 of the Code of Virginia for one or more of the following classifications or specialty services:</u> <u>1. Residential Building Contractors (RBC)</u> <u>2. Home Improvement Contracting (HIC)</u> <u>3. Commercial Building Contractors (CBC)</u>	<u>2</u>
<u>1</u>	<u>The qualified individual of a contractor license issued pursuant to Chapter 11 of Title 54.1 of the Code of Virginia for one or more of the following classifications:</u> <u>1. Electrical Contractors (ELE)</u> <u>2. HVAC Contractors (HVA)</u>	<u>3</u>

	<u>3. Plumbing Contractors (PLB)</u>	
<u>2</u>	<u>Architect or professional engineer licensed pursuant to Chapter 4 of Title 54.1 of the Code of Virginia.</u>	<u>2</u>
<u>2</u>	<u>Building code official certified pursuant to the Department of Housing and Community Development Virginia Certification Standards (13VAC5-21-10 et seq. of the Virginia Administrative Code).</u>	<u>2</u>

B. Qualifying experience. 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.

C. Accredited colleges or universities and verification procedures. An applicant seeking to qualify for licensure based on completion of a class from an accredited college or university must submit an official transcript from the school where the applicable class was completed. Only classes from an accredited college or university that is approved or accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education will be considered. An applicant seeking to qualify for licensure based on working or teaching at an accredited college or university must submit evidence satisfactory to the board of employment by the college or university. Only employment with an accredited college or university that is approved or accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, a regional or national accreditation, or by an accrediting agency that is recognized by the U.S. Secretary of Education will be considered.

18VAC15-40-33 Examination conduct

Procedures and appropriate conduct established by the board or examination organization administering the examination approved by the board, or both, ~~shall~~ must be followed by the applicant. Such procedures ~~shall~~ include written instructions communicated prior to the

examination date and instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board or the examination organization with regard to conduct at the examination ~~shall~~ will be grounds for denial of the application.

18VAC15-40-35 Qualifications for the new residential structure specialty

To obtain the NRS specialty, the applicant ~~shall~~ must submit the appropriate application form and fee pursuant to 18VAC15-40-50 and meet the following qualifications:

1. Hold a current and valid home inspector license. An applicant who does not hold a current and valid home inspector license ~~shall~~ must apply for such licensure and meet the requirements contained in 18VAC15-40-30 and 18VAC15-40-32.
2. Submit proof of successful completion of an NRS training module approved by the board pursuant to Part VI (~~18VAC15-40-120~~ 18VAC15-40-200 et seq.) of this chapter and completed no more than two years prior to the date of application.

18VAC15-40-48 General fee requirements

All fees are nonrefundable and ~~shall~~ will not be prorated. The date on which the fee is received by the department or its agent will determine whether the fee is on time. Checks or money orders ~~shall~~ must be made payable to the Treasurer of Virginia.

18VAC15-40-50 Fees

Fee type	Fee amount	When due
Initial home inspector application	\$80	With application for home inspector
Initial NRS specialty application	\$80	With application for NRS specialty designation
Home inspector renewal	\$45	With renewal application
Home inspector with NRS specialty renewal	\$90	With renewal application
Home inspector reinstatement	\$125	With reinstatement application
Home inspector with NRS specialty reinstatement	\$170	With reinstatement application
Prelicense education course approval	\$250	With prelicense education course approval application
NRS training module approval	\$150	With NRS training module approval application

NRS CPE course approval	\$150	With NRS CPE course approval application
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~~For licenses expiring after February 1, 2018, and before February 1, 2020, the renewal fees shall be as follows:~~

Home inspector renewal	\$25
Home inspector with NRS specialty renewal	\$50

~~For reinstatement applications received after March 1, 2018, and on or before February 29, 2020, the reinstatement fees shall be as follows:~~

Home inspector reinstatement	\$105
Home inspector with NRS specialty reinstatement	\$130

For licenses expiring after February 1, 2020, and before February 1, 2022, the renewal fees shall be as follows:

Home inspector renewal	\$40
Home inspector with NRS specialty renewal	\$80

For reinstatement applications received after March 1, 2020, and on or before February 28, 2022, the reinstatement fees shall be as follows:

Home inspector reinstatement	\$120
Home inspector with NRS specialty reinstatement	\$160

For licenses expiring after February 1, 2022, and before February 1, 2024, the renewal fees shall be as follows:

<u>Home inspector renewal</u>	<u>\$25</u>
<u>Home inspector with NRS specialty renewal</u>	<u>\$50</u>

For reinstatement applications received after March 1, 2022, and on or before February 29, 2024, the reinstatement fees shall be as follows:

<u>Home inspector reinstatement</u>	<u>\$105</u>
<u>Home inspector with NRS specialty reinstatement</u>	<u>\$130</u>

18VAC15-40-60 Renewal required

Part III

Renewal and Reinstatement of License

Licenses issued under this chapter ~~shall~~ will expire two years from the last day of the month in which they were issued.

18VAC15-40-72 Continuing professional education required for home inspector licensure

A. Each licensee ~~shall have completed~~ must complete 16 contact hours of continuing professional education (CPE) during each license renewal cycle. CPE can be met through classroom instruction, distance learning, or online education technology.

B. Notwithstanding the provisions of 18VAC15-40-75, the subject matter addressed during CPE contact hours ~~shall be~~ is limited to the content areas covered by the board's approved examination.

C. The licensee ~~shall~~ will not receive CPE credit for the same training course more than once during a single license renewal cycle.

D. A licensee who completes the initial training module required by 18VAC15-40-35 to obtain an NRS specialty may count completion of the module towards the required 16 hours of CPE credit for that renewal cycle.

18VAC15-40-73 Acceptable topics for continuing professional education

A. The following topics will be accepted for CPE credit, all as related to home inspection services:

1. Site conditions;

2. Exterior components;

3. Roof components;

4. Structural components;

5. Electrical systems;

6. Cooling systems;

7. Heating systems;

8. Insulation, moisture management systems, and ventilation systems;

9. Mechanical exhaust systems;

10. Plumbing systems;

11. Interior components;

12. Fireplaces, fuel-burning appliances, chimney, and vent systems;

13. Common permanently-installed kitchen appliances;

14. Home inspection reporting requirements;

15. Responsibilities to the client, including required home inspection contract elements; and

16. Laws and regulations applicable to the profession.

B. In addition to the topics provided in subsection A, a licensee may receive a maximum of four contact hours of CPE credit for completion of training required to maintain credentials, howsoever denominated, related to home inspection services, including asbestos inspection, lead inspection, and radon testing.

C. A licensee may apply completion of the NRS CPE course, as applicable, toward the 16 contact hours of CPE required for license renewal.

18VAC15-40-75 Board-approved new residential structure update continuing professional education course required to maintain new residential structure specialty

A. In addition to the CPE requirements of 18VAC15-40-72, to maintain the NRS specialty, the licensee shall ~~must~~ submit proof of completion of a ~~four-hour~~, board-approved NRS CPE course; ~~which can be applied toward the 16 contact hours of CPE required for the license renewal.~~

B. A licensee who has taken the initial NRS training module pursuant to subdivision 2 of 18VAC15-40-35 no more than one year before the expiration date on the license will not require proof of the NRS CPE course for that renewal. All other requirements for renewal must be met in order to renew the license and the home inspector is still required to have completed all other CPE requirements pursuant to this chapter.

18VAC15-40-76 Continuing professional education for instructors

A licensee may receive CPE credit for teaching a course that otherwise meets the requirements of this chapter; however, additional credit ~~shall will~~ not be given for subsequent offerings of a course or activity with the same content within the same licensing cycle. In addition, a licensee may receive two hours of CPE no more than once during a single licensing cycle for the initial development or substantial updating of a CPE course.

18VAC15-40-78 Maintenance of continuing professional education records

A. Each licensee ~~shall must~~ 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. Such documentation ~~shall must~~ be provided to the board or its duly authorized agents upon request. The following ~~shall will~~ be maintained by the licensee to document completion of the hours of CPE specified in 18VAC15-40-72:

1. Evidence of completion that ~~shall contain~~ that contains the name, address, and telephone number of the training provider;
2. The dates the ~~applicant~~ licensee participated in the training;
3. Descriptive material of the subject matter presented documenting that it covers the content areas covered by the board's examination; and

4. A statement from the provider verifying the number of CPE contact hours completed.
- B. The board may conduct an audit of its licensees to ensure compliance with the applicable CPE requirements. Licensees who are selected for audit ~~shall~~ must provide the necessary documentation stipulated in this section.
- C. The licensee may request additional time to meet the CPE requirement; however, CPE hours earned during a license renewal cycle to satisfy the CPE requirement of the preceding license renewal cycle ~~shall~~ will be valid only for that preceding license renewal cycle.

18VAC15-40-80 Procedures for renewal

- A. Prior to the expiration date shown on the license, the board ~~shall~~ will mail a renewal notice to the licensee's address of record.
- B. Prior to the expiration date shown on the license, ~~the~~ a licensee desiring to renew his license ~~shall~~ must return to the board ~~the renewal notice~~ (i) a completed renewal application, (ii) proof of insurance required by 18VAC15-40-30, (iii) proof of completion of CPE, in accordance with 18VAC15-40-72, and (iv) the appropriate fee specified in 18VAC15-40-50.
- C. ~~Prior to the expiration date shown on the license~~ In addition to the requirements of subsection B of this section, a licensee with the NRS specialty must submit proof of completion of four hours of board-approved NRS CPE, in accordance with 18VAC15-40-75, ~~along with the renewal notice and the appropriate fee specified in 18VAC15-40-50.~~
- D. Failure to receive the renewal notice does not relieve the licensee of the obligation to renew. If the licensee fails to receive the renewal notice, a copy of the license may be submitted with the required fee and any other required documentation as an application for renewal. The date on which the renewal application is received by the department or its agent will determine whether the renewal application was received on time.
- E. By submitting the renewal application, the licensee is affirming that the CPE requirements of 18VAC15-40-72 have been met, and he is in continued compliance with this chapter.

18VAC15-40-90 Reinstatement

- A. If the requirements for renewal of a license, as provided in 18VAC15-40-80, are not completed by the licensee within 30 days after the expiration date on the license, reinstatement of the license ~~shall~~ will be required.
- B. All applicants for reinstatement ~~shall~~ must meet all requirements set forth in 18VAC15-40-30, 18VAC15-40-72, and 18VAC15-40-75, as applicable.
- C. A license may be reinstated for up to two years following the expiration date upon submittal of the reinstatement application consisting of (i) payment of the reinstatement fee, (ii) proof of insurance required by 18VAC15-40-30, (iii) proof of CPE in accordance with 18VAC15-40-72, and (iv) proof of CPE to maintain the NRS specialty, if applicable. After two years, the license ~~shall~~ will not be reinstated under any circumstances, and the individual ~~shall~~ must apply as a new applicant and meet entry requirements current at the time of submittal of the new application.

D. By submitting the reinstatement application, the individual is affirming that he is in continued compliance with this chapter.

18VAC15-40-105 Status of licensee during the period prior to reinstatement

A. A licensee who reinstates his license ~~shall~~ will be regarded as having been continuously licensed without interruption; ~~and shall~~ will remain under the disciplinary authority of the board during this entire period; and ~~shall~~ will be held accountable for his activities during this period.

B. Any regulated activity conducted subsequent to the license expiration date may constitute unlicensed activity and be subject to prosecution under Chapter 1 (§ 54.1-100 et seq.) of Title 54.1 of the Code of Virginia.

18VAC15-40-108 ~~License renewal or reinstatement after July 1, 2017. (Repealed.)~~

~~A license eligible for renewal or reinstatement on or after July 1, 2017, shall be required to meet the requirements of this part as amended effective July 1, 2017, upon submittal of the renewal or reinstatement application, as applicable.~~

18VAC15-40-120 Home inspection contract

Part IV

Minimum Standards for Conducting Home Inspections

A. For the protection of both the client and the licensee, both parties ~~shall~~ must sign a legible, written contract clearly specifying the terms, conditions, and limitations and exclusions of the work to be performed. 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.

B. At a minimum, the written contract ~~shall~~ must include:

~~1. Name, business name (if applicable), business address, and telephone number of the home inspector. The following information applicable to the home inspector:~~

a. Name;

b. Business name, if applicable;

c. Address;

d. Telephone number, email address, or other contact information, as applicable; and

e. License number and notation of NRS specialty, if applicable.

~~2. License number of the home inspector, and notation of NRS specialty, if applicable.~~

~~3.~~ 2. Name of the clients client.

~~4.~~ 3. Physical address of the residential property building or NRS to be inspected.

~~5.~~ 4. Cost of the home inspection.

~~6. 5.~~ A listing of all areas and systems to be inspected, ~~including those inspections that are either partial or limited in scope.~~

~~7. 6.~~ A statement ~~in the contract~~ that the home inspection does not include a review for compliance with regulatory requirements (Virginia Uniform Statewide Building Code or other codes, regulations, laws, ordinances, etc.).

~~8. To the extent that any of the following categories are not covered by the home inspection, they shall be noted as exclusions in the inspection contract~~ 7. A statement disclosing any exclusions to the home inspection. Such exclusions may include the following:

- a. The condition of systems or components that are not readily accessible.
- b. The remaining life of any system or component.
- c. The strength, adequacy, effectiveness, or efficiency of any system or component.
- d. The causes of any condition or deficiency.
- e. The methods, materials, or costs of corrections.
- f. Future conditions including failure of systems and components.
- g. The suitability of the property for any specialized use.
- h. The market value of the property or its marketability.
- i. The advisability of the purchase of the property.
- j. The presence of diseases harmful to humans or potentially hazardous plants or animals including wood destroying organisms and mold.
- k. The presence of any environmental hazards including toxins, carcinogens, noise, asbestos, lead-based paint, mold, radon, and contaminants in soil, water, and air.
- l. The effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances.
- m. The operating costs of systems or components.
- n. The acoustical properties of any system or component.
- o. The presence of components involved in manufacturer's recalls.
- p. The inspection of outbuildings.

~~To the extent any other items are not specifically included in the home inspection by agreement of the parties, they shall also be noted as exclusions in the home inspection contract.~~

~~9. 8.~~ Estimated delivery date of the home inspection report to the client ~~of the home inspection report.~~

~~10. 9.~~ Dated signatures of both the home inspector and the client or the client's authorized representative.

10. A statement providing that 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.

11. Disclosure of the cancellation rights of the parties.

12. A general statement on the limits of the home inspector's liability.

C. The home inspection contract ~~shall~~ must make written disclosure that the home inspection report is (i) based upon visual observation of existing conditions of the inspected ~~property~~ residential building or NRS at the time of the inspection, and ~~is~~ (ii) not intended to be, or to be construed as, a guarantee, warranty, or any form of insurance. This provision does not prevent a home inspector from offering a separate guarantee, warranty, or any form of insurance if he so chooses.

~~D. If the home inspector recommends a person to the client for repairs or modifications to the inspected property, the home inspector shall disclose to the client all financial interests that the home inspector has with the recommended person. The disclosure shall be written within the home inspection contract~~ The home inspection contract must disclose any financial interest that the licensee has or reasonably expects to have with any person whom the licensee recommends to the client for the repairs or modifications to the residential building or NRS.

E. If the home inspector has designed or performed repairs or modifications to, or has inspected, the residential building or NRS to be inspected within the preceding 12 months, the home inspection contract must disclose to the client the specifics of the repairs or modifications he designed or performed, or any inspection he performed.

18VAC15-40-130 Home inspection report

A. A home inspection report is a written evaluation of the readily accessible components of a residential building or NRS, including heating, cooling, plumbing, and electrical systems; structural components; foundation; roof; masonry structure; exterior and interior components; and other related residential housing components.

~~A.~~ B. Home inspection reports ~~shall~~ must contain:

1. Information pertaining to the licensee, including:

a. ~~Licensee's name~~ Name;

b. ~~Business address~~ Address;

c. Telephone number, email address, or other contact information, as applicable; and

d. License number and expiration date, to be followed by "NRS" if so designated and performing a home inspection on a new residential structure;

2. The name, ~~address,~~ and ~~telephone number~~ contact information of the client or the client's authorized representative, ~~if available at the time of the inspection~~;

3. The physical address of the residential ~~property~~ building or NRS inspected; and

4. The date, ~~time (to include both start and finish times of the home inspection),~~ and weather conditions at the time of the home inspection.

~~B. C.~~ In conducting a home inspection and reporting its findings, the home inspector, ~~at a minimum, shall~~ must inspect the condition of and ~~shall~~ must describe in writing the composition ~~or~~ and characteristics of the following readily accessible components and readily observable defects of the residential building or NRS, except as may be limited ~~in~~ by the home inspection contract agreement:

1. Structural system.

a. Foundation.

b. Framing.

c. Stairs.

d. Crawl space, ~~the~~. The method of inspecting the crawl space ~~shall~~ must be noted and explained ~~in the home inspection report. If the crawl space cannot be inspected, the licensee shall explain in the home inspection report why this component was not inspected.~~

e. Crawl space ventilation and vapor barriers.

f. Slab floor, ~~when present~~.

g. Floors, ~~ceilings, and walls~~.

h. Ceilings.

i. Walls.

2. Roof structure, attic, and insulation systems and components.

a. Roof covering. The method of inspecting the roof covering ~~shall~~ must be noted and explained ~~in the home inspection report. If the roof covering cannot be inspected, the licensee shall explain in the home inspection report why this component was not inspected.~~

b. Roof ventilation.

c. Roof drainage system, to include gutters and downspouts.

d. Roof flashings, if readily visible.

e. Skylights, chimneys, and roof penetrations, but not antennae or other roof attachments.

f. Roof framing and sheathing.

g. Attic, ~~unless area is not readily accessible~~.

h. Attic insulation.

3. Exterior ~~of residential building or NRS~~ systems or components.

a. Wall covering, flashing, and trim.

b. ~~Readily accessible doors~~ Doors and windows, ~~but~~. This does not include the operation of associated security locks, devices, or systems.

c. Decks, balconies, stoops, steps, porches, attached garages, carports, and any associated railings that are adjacent to the residential building or NRS and on the same property ~~but~~. This does not include associated screening, shutters, awnings, storm windows, detached garages, or storm doors.

d. Eaves, soffits, and fascias where readily accessible from ground level.

e. Walkways, grade steps, patios, and driveways, ~~but~~. This does not include fences or privacy walls.

f. Vegetation, trees, grading, drainage, and ~~any~~ retaining walls adjacent to the residential building or NRS.

g. Visible exterior portions of chimneys.

4. Interior ~~of residential building or NRS~~ systems and components.

a. Interior walls, ceilings, and floors of residential building or NRS and any adjacent garage.

b. Steps, stairways, railings, and balconies and associated railings.

c. Countertops and installed cabinets, including hardware.

d. Doors and windows, ~~but~~. This does not include the operation of associated security locks, devices, or systems.

e. Garage doors and permanently mounted and installed garage door operators. The automatic safety reverse function of garage door openers ~~shall~~ must be tested, either by physical obstruction as specified by the manufacturer, or by breaking the beam of the electronic photo eye but only when the test can be safely performed and will not risk damage to the door, the opener, any nearby structure, or any stored items.

f. Fireplaces, venting systems, hearths, dampers, and fireboxes, ~~but~~. This does not include mantles, fire screens and doors, or seals and gaskets.

g. Solid fuel burning appliances, ~~if applicable~~.

5. Plumbing system.

a. Interior water supply and distribution systems, including water supply lines and all fixtures and faucets, ~~but~~. This does not include water conditioning systems or fire sprinkler systems.

b. Water drainage, waste, and vent systems, including all associated fixtures.

c. Drainage sumps, sump pumps, and related piping.

d. Water heating equipment, including energy source and related vent systems, flues, and chimneys, ~~but~~. This does not include solar water heating systems.

e. Fuel storage and distribution systems ~~for visible leaks~~.

6. Electrical system.

a. Service drop.

- b. Service entrance conductors, cables, and raceways.
- c. Service equipment and main disconnects.
- d. Service grounding.
- e. Interior components of service panels and sub panels, including feeders.
- f. Conductors.
- g. Overcurrent protection devices.
- h. ~~Readily accessible installed~~ Installed lighting fixtures, switches, and receptacles.
- i. Ground fault circuit interrupters.
- j. Presence or absence of smoke or carbon monoxide detectors.
- k. Presence of solid conductor aluminum branch circuit wiring.
- l. Arc fault interrupters ~~shall~~ must be noted if installed but not tested if equipment is attached to them.

7. Heating system.

a. Heating equipment, including operating controls, ~~but~~, This does not include heat exchangers, gas logs, built-in gas burning appliances, grills, stoves, space heaters, solar heating devices, or heating system accessories such as humidifiers, air purifiers, motorized dampers, and heat reclaimers.

b. Energy source.

c. Heating distribution system.

d. Vent systems, flues, and chimneys, including dampers.

8. Air conditioning system.

a. Central and installed wall air conditioning equipment.

b. Operating controls, access panels, and covers.

c. Energy source.

d. Cooling distribution system.

D. To the extent that a component or system cannot be inspected, the home inspection report must identify such component or system and provide an explanation for why the component or system was not inspected.

~~C.~~ E. Systems in the home that are turned off, winterized, or otherwise secured so that they do not respond to normal activation using standard operating controls need not be put into operating condition. The ~~home inspector shall~~ home inspection report must state, ~~in writing,~~ the reason these systems or components were not inspected.

~~D.~~ F. In accordance with § 54.1-517.2:1 of the Code of Virginia, if a home inspector observes the presence of any shade of yellow corrugated stainless steel tubing during a home inspection in a home that was built prior to the adoption of the 2006 Virginia Construction Code, effective May 1, 2008, the home inspector shall include that observation in the report along with the following statement: "Manufacturers believe that this product is safer if properly bonded and grounded as required by the manufacturer's installation instructions. Proper bonding and grounding of the product should be determined by a contractor licensed to perform the work in the Commonwealth of Virginia."

18VAC15-40-140 Conflict of interest

Part V

Standards of Conduct and Practice

A. The licensee ~~shall~~ will not:

1. Design or perform repairs or modifications to a residential building or NRS on which he has performed a home inspection ~~as a result of the findings of the home inspection~~ within 12 months after the date he performed the home inspection, except in cases where the home inspector purchased the residence after he performed the home inspection;
2. Perform a home inspection of a residential building or NRS upon which he has designed or performed repairs or modifications within the preceding 12 months without disclosing to the client in the home inspection contract the specifics of the repairs or modifications he designed or performed;
3. Refer his client to another person to make repairs or modifications to a residential building or NRS on which he has performed a home inspection unless, in accordance with 18VAC15-40-120 D, he provides written documentation to his client that clearly discloses ~~all~~ any financial ~~interests~~ interest that the licensee has or reasonably expects to have with the person who is recommended for the repairs or modifications;
4. Represent the ~~financial~~ interests, either personally or through his employment, of any of the parties to the transfer or sale of a residential building or NRS on which he has performed a home inspection without disclosing such fact to the client; or
5. Perform a home inspection of a residential building or NRS under a contingent agreement whereby any compensation or future referrals are dependent on the reported findings or on the sale of the property.

B. Notwithstanding the provisions of 18VAC15-40-180, The the licensee ~~shall~~ must not disclose any information concerning the results of the home inspection without the approval of the client for whom the home inspection was performed. However, the licensee may disclose information in situations where there is an imminent endangerment to life or health.

C. The licensee ~~shall~~ must not accept compensation from more than one interested party for the ~~same service~~ home inspection on the same property without the consent of all interested parties.

D. The licensee ~~shall~~ must not accept nor offer commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with ~~work for which the licensee is~~

~~responsible~~ the home inspection. Additionally, the licensee ~~shall~~ must not enter into any financial relationship with any party that may compromise the licensee's commitment to the best interest of his client.

E. A home inspector may provide services to a client in addition to a home inspection. The home inspector must disclose to the client the additional services to be performed and how such services may conflict with the home inspection. The disclosure must be in writing and may be incorporated into the home inspection contract or contained in a separate written agreement with the client. Any additional services performed pursuant to this subsection must be performed in accordance with applicable laws and regulations.

~~E. F.~~ The home inspection ~~shall~~ must not be used as a pretext by the licensee to solicit or obtain work in another field, except for additional diagnostic inspections or testing.

18VAC15-40-145 Competency for assignments

A. The licensee ~~shall~~ must undertake to perform professional assignments only when qualified by education or experience, or both.

B. A licensee ~~shall~~ must not misrepresent to a prospective or existing client or employer his qualifications and the scope of his responsibility in connection with a home inspection.

18VAC15-40-147 Licensee's responsibility

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.

18VAC15-40-150 Grounds for disciplinary action

The board ~~has the power to place a licensee on probation,~~ may impose a monetary penalty in accordance with § 54.1-202 A of the Code of Virginia; ~~or~~ may revoke, suspend, or refuse to renew a license when the licensee has been found to have violated or cooperated with others in violating any provision of the regulations of the board or Chapter 1, 2, 3, or 5 of Title 54.1 of the Code of Virginia ~~or this chapter~~.

18VAC15-40-152 Notice of adverse action

A. A licensee ~~shall~~ must notify the board of the following actions against the licensee:

1. Any disciplinary action taken by any jurisdiction, board, or administrative body of competent jurisdiction, including any (i) reprimand; (ii) license or certificate revocation, suspension, or denial; (iii) monetary penalty; (iv) requirement for remedial education; or (v) other corrective action.

2. Any voluntary surrendering of a related license, certificate, or registration done in connection with a disciplinary action in another jurisdiction.

3. Any conviction, finding of guilt, or plea of guilty, regardless of adjudication or deferred adjudication, in any jurisdiction of the United States of any ~~(i) misdemeanor involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury or relating to performing a home inspection~~, except marijuana convictions, or ~~(ii) felony~~, there being no appeal pending therefrom or the time for appeal having lapsed. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. ~~Any plea of nolo contendere shall be considered a conviction for the purpose of this section.~~

B. The notice must be made to the board in writing within 30 days of the action. A copy of the order or other supporting documentation must accompany the notice. ~~The record of conviction, finding, or case decision shall be considered prima facie evidence of a conviction or finding of guilt.~~

18VAC15-40-155 Prohibited acts

The following acts are prohibited and any violation may result in disciplinary action by the board:

1. Violating, including inducing another to violate, cooperating with another to violate, or combining or conspiring with or acting as agent, partner, or associate for another to violate any of the provisions of Chapter 1 (§ 54.1-100 et seq.), 2 (§ 54.1-200 et seq.), 3 (§ 54.1-300 et seq.) or 5 (§ 54.1-500 et seq.) of Title 54.1 of the Code of Virginia or any of the regulations of the board.

~~4.~~ 2. Obtaining or attempting to obtain a license by false or fraudulent representation, 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.

~~2. Performing improvements or repairs to a residential building as a result of the findings of the home inspection within 12 months before or after performing a home inspection on it, except in cases where the home inspector purchased the residential building after he performed the home inspection.~~

~~3. Violating or inducing another person to violate any of the provisions of Chapter 1, 2, 3, or 5 of Title 54.1 of the Code of Virginia or this chapter.~~

3. Failing to maintain the insurance policy required pursuant to 18VAC15-40-30 G.

4. Failing to report a change or maintain records pursuant to 18VAC15-40-160.

~~4.~~ 5. A licensee having been convicted, or found guilty in any jurisdiction, or disciplined by any jurisdiction, board, or administrative body in any jurisdiction of any offense or violation enumerated in 18VAC15-40-152. Review of convictions shall will be subject to the requirements of § 54.1-204 of the Code of Virginia.

~~5.~~ 6. Failing to inform the board in writing within 30 days that the licensee was convicted, or found guilty in any jurisdiction, or disciplined in by any jurisdiction, board, or administrative body of any offense or violation enumerated in 18VAC15-40-152.

~~6. Failing to act as a licensee in such a manner as to safeguard the interests of the public.~~

7. Failure to use a contract that complies with 18VAC15-40-120.
8. Failure to produce a home inspection report that complies with 18VAC15-40-130.
9. Failure to comply with the requirements of 18VAC15-40-140.
10. Actions constituting negligence, incompetence, or misconduct in the practice of the profession, including:
 - a. Having performed a home inspection when not qualified by training or experience to competently perform any part of the home inspection.
 - b. Not demonstrating reasonable care, judgment, or application of the required knowledge, skill, and ability in the performance of the licensee's duties.
 - c. Conducting a home inspection on any new residential structure without the NRS specialty issued by the board.
 - d. Having cited, stated, or represented that there exists a violation of the Virginia Uniform Statewide Building Code (13VAC5-63) in a home inspection report or other document prepared relative to a home inspection.
 - e. Advising a client as to whether the client should or should not engage in a real estate transaction or provide an opinion of value regarding the residential building or NRS that is the subject of the home inspection.
 - f. Failing to adequately supervise and review work by unlicensed individuals who are gaining experience under the direct supervision of the licensee.
- ~~7. 11. Engaging Actions constituting engaging in improper, fraudulent, or dishonest conduct in conducting a home inspection. ,including:~~
 - a. Making any misrepresentation or making a false promise that might influence, persuade, or induce.
 - b. Knowingly misrepresenting factual information in expressing a professional opinion.
 - c. The intentional and unjustified failure to complete work contracted for or to comply with the terms in the contract.
 - d. The retention or misapplication of funds paid, for which work is either not performed, or performed only in part.
- ~~8. Having performed a home inspection when not qualified by training or experience to competently perform any part of the home inspection.~~
- ~~9. Failing to maintain, through training, the proficiency to perform Virginia home inspections.~~
- ~~10. Conducting a home inspection on any new residential structure without the NRS specialty issued by the board.~~
- ~~11. Failing to maintain the insurance policy required pursuant to 18VAC15-40-30 G.~~
- ~~12. Failing to report a change pursuant to 18VAC15-40-160.~~

~~13. Having cited, stated, or represented that there exists a violation of the Virginia Uniform Statewide Building Code (13VAC5-63) in a home inspection report or other document prepared relative to a home inspection.~~

12. Allowing a license issued by the board to be used by another.

13. Failure to comply with the requirements of 18VAC15-40-180.