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H.227

Introduced by Representatives Webb of Shelburne, Buxton of Tunbridge,
Christie of Hartford, Deen of Westminster, Devereux of Mount
Holly, Emmons of Springfield, Frank of Underhill, Hebert of
Vernon, Helm of Fair Haven, Jerman of Essex, Krebs of South
Hero, Lanpher of Vergennes, Pearson of Burlington, Rachelson
of Burlington, South of St. Johnsbury, Stuart of Brattleboro, and
Yantachka of Charlotte

Referred to Committee on

Date:

Subject: Professions and occupations; Department of Public Safety; Division
of Fire Safety; regulation of property inspectors

Statement of purpose of bill as introduced: This bill proposes to require the
Department of Public Safety's Division of Fire Safety to license and regulate
property inspectors.

An act relating to licensing and regulating property inspectors

It is hereby enacted by the General Assembly of the State of Vermont:

1 Sec. 1. 26 V.S.A. chapter 19 is added to read:

2 CHAPTER 19. PROPERTY INSPECTORS

3 Subchapter 1. General Provisions

4 § 1051. PURPOSE AND EFFECT

5 In order to safeguard property and the public welfare, a person shall not
6 engage in the practice of property inspecting unless currently licensed under
7 this chapter.

8 § 1052. DEFINITIONS

9 As used in this chapter:

10 (1) “Board” means the Vermont Board of Property Inspectors.

11 (2) “Disciplinary action” means any action taken against a licensee for
12 unprofessional conduct.

13 (3) “License” means a current authorization permitting the practice of
14 property inspecting issued pursuant to this chapter.

15 (4) “Practice of property inspecting” means performing or offering to
16 perform services involving the physical inspection of real property structures
17 and other improvements in order to evaluate the condition of the property,
18 including any safety issues or material defects.

19 (5) “Property inspector” means a person who is licensed to practice
20 property inspecting under this chapter.

1 § 1053. PROHIBITIONS; OFFENSES

2 (a) It shall be a violation of this chapter for any person, including any
3 corporation, association, or individual, to:

4 (1) sell or fraudulently obtain or furnish any property inspector degree,
5 diploma, certificate of registration, license, or any other related document or
6 record or to aid or abet in so doing;

7 (2) practice property inspecting under cover of any degree, diploma,
8 registration, license, or related document or record illegally or fraudulently
9 obtained or signed or issued unlawfully or under fraudulent representation;

10 (3) practice property inspecting unless duly registered and currently
11 licensed to do so under the provisions of this chapter;

12 (4) represent himself or herself as being licensed by this state to practice
13 property inspecting or use in connection with a name any words, letters, signs,
14 or figures which imply that a person is a property inspector when not licensed
15 or otherwise authorized under this chapter;

16 (5) practice property inspecting during the time a license or
17 authorization issued under this chapter is suspended or revoked; or

18 (6) conduct a property inspector training program unless the program
19 has been approved by the Board.

20 (b) Any person violating this section shall be subject to a fine of not more
21 than \$5,000.00 or imprisonment for not more than one year, or both.

1 Prosecution may occur upon the complaint of the Attorney General, a state's
2 attorney, or an attorney assigned by the Department of Public Safety and shall
3 not act as a bar to civil or administrative proceedings involving the same
4 conduct.

5 § 1054. EXCEPTIONS

6 This chapter does not prohibit:

7 (1) the practice of property inspection which is incidental to his or her
8 program of study by a person enrolled in a property inspection training
9 program approved by the Board; or

10 (2) the practice of any other occupation or profession by a person duly
11 licensed or otherwise authorized under the laws of this State.

12 Subchapter 2. Administration

13 § 1061. BOARD OF PROPERTY INSPECTORS; MEMBERSHIP

14 (a) A Board of Property Inspectors is created within the Department of
15 Public Safety's Division of Fire Safety to regulate the licensure of property
16 inspectors.

17 (b) The Board shall consist of seven members, one of whom shall be the
18 Director of Fire Safety. The remaining members shall serve four-year terms
19 and be appointed by the Governor pursuant to 3 V.S.A. § 2004. The members
20 appointed by the Governor shall include four licensed property inspectors and
21 two public members, as that term is defined in section 3101a of this title.

1 (c) The members of the Board appointed by the Governor shall be entitled
2 to compensation as provided in 32 V.S.A. § 1010.

3 § 1062. BOARD POWERS AND DUTIES

4 (a) The Board shall:

5 (1) Adopt rules according to the provisions of the Vermont
6 Administrative Procedure Act set forth in 3 V.S.A. chapter 25 which:

7 (A) are necessary for the performance of its duties as set forth in this
8 chapter;

9 (B) establish minimum standards of practice. Standards adopted by
10 the Board shall not exceed the minimum required to protect the public and
11 shall be responsive to a demonstrated need to impose standards; and

12 (C) establish the activities that must be completed by an applicant in
13 order to fulfill the experience requirements established by the Board. The rules
14 shall require that the applicant's experience be under the supervision of a
15 licensed property inspector who has been licensed for three years or more, and
16 shall not require that the applicant be in charge of the property inspection. The
17 activities shall be designed to ensure that all applicants acquire experience in
18 critical areas of property inspecting, but shall not limit admission to licensure
19 unless there is good reason to believe that licensure of a particular applicant
20 would be inconsistent with safeguarding property and the public welfare.

21 (2) Adopt an official seal.

1 (3) Provide general information to applicants for admission to licensure
2 as property inspectors.

3 (4) Explain appeal procedures to licensees and applicants and complaint
4 procedures to the public.

5 (5) Inform a prospective applicant that he or she may notify the Board
6 if, after reasonable effort, he or she has been unable to obtain supervision by a
7 licensee for activities prerequisite to licensure. When the Board receives such
8 a notice, it may interview the prospective applicant, and thereafter shall take
9 whatever action it considers appropriate.

10 (6) If applications for licensure by examination are pending, offer
11 examinations at least twice each year and determine the qualifications of
12 applicants.

13 (b) The Board may consult with an attorney assigned by the Department of
14 Public Safety for the proper conduct of its affairs.

15 § 1063. DISCIPLINE OF LICENSEES

16 The Board, after notice to the licensee and opportunity for hearing, may
17 condition, suspend, or revoke a license issued under this chapter, or refuse to
18 renew the license of a person who has made application for renewal:

19 (1) if the license was wrongfully or fraudulently obtained;

20 (2) if the licensee has violated or failed to comply with any provision of
21 this chapter, or any rule adopted under this chapter; or

1 (3) if the licensee is found by the Board to be unqualified to hold the
2 license.

3 § 1064. APPEALS FROM BOARD DECISIONS

4 (a) A party aggrieved by a final decision of the Board may, within 30 days
5 of the decision, appeal that decision by filing a notice of appeal with the
6 Commissioner of Public Safety who shall assign the case to an appellate
7 officer. The review shall be conducted on the basis of the record created
8 before the Board. In cases of alleged irregularities in procedure before the
9 Board, not shown in the record, proof on that issue may be taken by the
10 appellate officer.

11 (b) The appellate officer shall not substitute his or her judgment for that of
12 the Board as to the weight of the evidence on questions of fact. The appellate
13 officer may affirm the decision, or may reverse and remand the matter with
14 recommendations if substantial rights of the appellant have been prejudiced
15 because the Board's finding, inferences, conclusions or decisions are:

16 (1) in violation of constitutional or statutory provisions;

17 (2) in excess of the statutory authority of the Board;

18 (3) made upon unlawful procedure;

19 (4) affected by other error of law;

20 (5) clearly erroneous in view of the evidence on the record as a whole;

21 (6) arbitrary or capricious; or

1 § 1073. RENEWALS

2 (a) Licenses shall be renewed every two years upon payment of the
3 renewal fee.

4 (b) Biennially, the Board shall forward a renewal form to each licensee.
5 Upon receipt of the completed form and the renewal fee, the Board shall issue
6 a new license.

7 (c) As a condition of renewal, the Board shall require that a licensee
8 establish that he or she has completed continuing education, as approved by the
9 Board, not to exceed 15 hours for each year of renewal.

10 (d) The Board may renew the license of an individual whose license has
11 lapsed upon payment of the required fee and the late renewal penalty, provided
12 the individual has satisfied all the requirements for renewal, including
13 continuing education.

14 § 1074. LICENSE AND RENEWAL FEES

15 (a) Applicants and persons regulated under this chapter shall pay the
16 following fees:

17 (1) Application \$100.00

18 (2) Biennial renewal of license \$200.00

19 (b) A late renewal penalty of \$25.00 shall apply for a renewal submitted
20 less than 30 days late. Thereafter, the Board may increase the late renewal
21 penalty by \$5.00 for each additional month or fraction of a month, provided

1 that the total penalty for a late renewal shall not exceed \$100.00. This penalty
2 shall not preclude disciplinary action for practicing without a valid license.

3 (c) The Board shall not require payment of renewal fees for years during
4 which a license was lapsed.

5 Sec. 2. TRANSITIONAL PROVISION; LICENSING OF CURRENT
6 PROPERTY INSPECTORS

7 The Commissioner of Public Safety shall establish a procedure so that
8 residents of Vermont who have been engaged in the practice of property
9 inspection in Vermont prior to the effective date of Sec. 1 of this act may
10 become licensed without examination. Only those applicants who can
11 establish a record of property inspecting practice for five or more years shall be
12 eligible for licensure without examination as property inspectors under this
13 section. A degree from an accredited property inspecting program may
14 substitute for years of the experience requirement under this section at the rate
15 of two years of accredited school work for one year of property inspecting
16 work experience. Any person licensed under this section shall thereafter be
17 eligible for licensure renewal pursuant to 26 V.S.A. § 1073.

18 Sec. 3. IMPLEMENTATION OF THE BOARD OF PROPERTY
19 INSPECTORS

20 (a) The Board of Property Inspectors, as created in this act, is established
21 on January 1, 2014.

1 (b) The Governor shall appoint Board members by July 1, 2013 for the
2 purposes set forth in subsection (c) of this section. The non-public Board
3 members shall meet the requirements for licensure without examination as set
4 forth in Sec. 2 (transitional provision; licensing of current property inspectors)
5 of this act. Of the initial six Board of Property Inspectors member
6 appointments, the Governor shall appoint two members for two-year terms,
7 two members for three-year terms, and two members for four-year terms, with
8 each public member being appointed to a different term length, so that the
9 terms of members expire in a staggered manner. Terms of members shall
10 officially begin as set forth in subsection (d) of this section.

11 (c) The Board members appointed as set forth in subsection (b) of this
12 section are authorized and shall conduct business through December 31, 2013
13 for the limited purposes of organizing and transitioning to the Board of
14 Property Inspectors established as set forth in subsection (a) of this section,
15 including the adoption of rules to:

16 (1) establish standards for property inspection training programs and
17 how they are approved;

18 (2) establish standards for registration and licensure of individuals for
19 the practice of property inspection;

20 (3) establish standards of practice for licensed property inspectors; and

1 (4) establish standards for:

2 (A) the renewal of licenses every two years; and

3 (B) the reentry into property inspection practice following a lapse of
4 five or more years.

5 (d) On January 1, 2014, the Board members appointed as set forth in
6 subsection (b) of this section shall be the members of the new Board of
7 Property Inspectors established as set forth in subsection (a) of this section, and
8 the official terms of their appointments shall begin on this date.

9 Sec. 4. EFFECTIVE DATES

10 This act shall take effect on passage, except that Sec. 1 (adding 26 V.S.A.
11 chapter 19) of this act shall take effect on January 1, 2014.