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Christopher D. Winters, Director

MEMORANDUM

To: Senate Committee on Government Operations

From: Christopher D. Winters, Director (828-2458)
Office of Professional Regulation

Date: March 19, 2014

Re: Property Inspectors Bill Summary H.227

Introduction

A request to regulate the profession of property inspectors was received by the Office of Professional Regulation ("OPR") in 2012. OPR performs a "sunrise" review of a profession when someone from within the profession requests regulation. Regulation should be imposed only when it is necessary to protect the public. The focus of the review is to determine whether the public needs to be protected from the unregulated practice of a profession such as property inspectors.

The sunrise review process in 2012 included extensive public outreach and public hearings to determine who might be in favor of or opposed to regulation, and why.

The review found many within in the profession in favor of regulation as well as strong support from real estate professionals. Very few members of the profession attended the public hearings or responded to our requests for public comment.

In short, the review found that the public is at risk from the unlicensed practice of property inspecting. Currently, anyone can call themselves a home or property inspector no matter what their qualifications. There are no standards for what is included or reported in a home inspection, nor is there any recourse for the purchasers of these services other than to file a lawsuit for damages after the home purchase has been made.

Buying a home is one of the biggest investments most Vermonters will make in their lives. Increasingly, standard real estate contracts necessarily include a home inspection as part of the transaction. In the interest of public protection, minimum standards for education and training ought to be required as well as a minimum standard for what the purchasers of these services can expect from an inspection and report. In this way, buyers, sellers, banks and real estate

professionals can be assured of a minimum level of competency and practice and have some recourse other than the court system to address unprofessional conduct by a property inspector.

This bill, H.275 is a strike-all amended bill. It started in General Housing and Military Affairs last year when the committee was considering placing the licensing responsibilities in the Department of Public Safety. After taking testimony last year, the proposal shifted to the Office of Professional Regulation and the Government Operations committee, the committee of jurisdiction for OPR. This bill has been re-written to fit OPR's regulatory structure instead of DPS's as originally proposed.

Section 1

3 V.S.A. §122: OFFICE OF PROFESSIONAL REGULATION

Adds Property inspectors to the list of regulated professions under the umbrella of OPR.

Section 2

Adds chapter 19 to the 45 other professions regulated by OPR in title 26.

26 V.S.A. §1051: PURPOSE AND EFFECT

License required before practicing property inspecting.

26 V.S.A. §1052: DEFINITIONS

Uses the standard OPR definitions of "Director" and "license" and defines "Property inspecting" and "property inspector."

26 V.S.A. §1053: PROHIBITIONS; OFFENSES

Makes it a violation of law to practice property inspecting without a license.

26 V.S.A. §1054: EXCEPTIONS

Exceptions to the license requirement include property inspector students and trainees or those working within the scope of practice of other licensed professions (architects or engineers, for example)

NOTE: Vermont banker's association is looking for language to make sure banking staff are not required to be licensed when doing a walk through for a business or construction loan.

26 V.S.A. §1071: DUTIES OF THE DIRECTOR

Describes the standard duties of the OPR Director for professions and authorizes administrative rulemaking as needed.

26 V.S.A. §1072: ADVISOR APPOINTEES

Allows the Secretary of State to appoint two licensed property inspectors to advise the Director on all matters relating to property inspection.

26 V.S.A. §1091: ELIGIBILITY FOR LICENSURE

Sets forth the requirements for licensure, which include:

--18 years old with a high school diploma or GED

--At least 80 hours of approved education covering 9 core components of property inspecting

--Complete a minimum number of inspections as part of the program of study

--National certification as a property inspector from one of the independent, nationally recognized organizations approved by the Director

NOTES about the national organizations:

--Probably going to be the American Society of Home Inspectors (ASHI) or the National --- Association of Home Inspectors (NAHI)

--Membership in either organization costs about \$400 per year

--Membership in either organization would automatically satisfy the above criteria for initial licensure and any renewal requirements every two years

26 V.S.A. §1092: LICENSE RENEWAL

Licenses are renewed every two years by showing current certification by one of the approved national organizations.

26 V.S.A. §1093: APPLICATIONS

General information about applications

26 V.S.A. §1094: LICENSURE GENERALLY

Director duty to issue a license to those who have met all the requirements.

26 V.S.A. §1095: FEES

The fees for advisor professions are in 3 V.S.A. §125.

--\$100 for initial application for licensure

--\$200 for renewal of license every two years

Section 3. TRANSITIONAL PROVISIONS

(a) Allows the initial appointment of advisors to be from those who are not yet licensed so the Director can get advice before licensure officially begins.

(b) Allows licensure for all those who have actively been practicing property inspection for the past five years (all experienced property inspectors get in the door at first).

(c) By July 1, 2016, all licensed property inspectors must hold one of the national certifications described above and approved by the Director (those who do not have certification have two years to get it).

(d) Allows the Director to begin the rulemaking process prior to the effective date of the rest of this bill.

Section 4. EFFECTIVE DATES

July 1, 2014 except for the transitional provisions which take effect