

Rules And Procedures

of the

Arkansas Home Inspector Registration Board

For the

Home Inspection Industry in Arkansas



*Adopted October 21, 2003
Effective November 10, 2003*

Arkansas Home Inspector Registration Board

Little Rock, Arkansas

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100 - General - The Arkansas Home Inspector Registration Board is an agency of the state government.

101 - Creation and Purpose of the Board:

A. The Arkansas Home Inspector Registration Board (the Board) was created by the action of the 84th General Assembly of the State of Arkansas during its regular session of 2003 with the passage of Act 1328, "An Act To Repeal The Home Inspector Registration Provisions; To Create A New Home Inspectors Registration Act; And For Other Purposes." (§17-52-301 A.C.A., as amended,) also known as "The Arkansas Home Inspectors Registration Act."

B. The purposes of the Board is to administer and enforce the provisions of the Arkansas Home Inspectors Registration Act; promote a business atmosphere that will protect consumers of home inspection services, oversee an ongoing continuing education program to develop high level skills in home inspectors, and encourage the presence of a viable home inspection industry in Arkansas. Specific powers and duties of the Board are delineated in §17-52-306 of the Act.

102 - Contacting the Board and Public Information Requests:

A. All public information requests should be directed to the Board.

B. Current information regarding how to contact the Board may be obtained by telephoning the Secretary of State at 1-888-233-0325 or 1-501-682-3437.

103 - Definitions - The following words and terms, when used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

A. "**A.C.A**" or "**Arkansas Code Annotated**" - The codified laws of Arkansas.

B. "**Act 1328**" or "**the Act**" - The Arkansas Home Inspectors Registration Act of 2003 as codified in A.C.A. §17-52-301 et seq., as may be amended.

C. "**Board**"- The Arkansas Home Inspector Registration Board, created by Act 1328 of 2003.

D. "**Certified true copy**" - A xerographic copy of an original document which bears this statement "I certify that this is a true copy of the original document." and is signed and sealed by a notary public.

E. "**Competency examination**" - A written examination to establish whether an applicant possess an adequate level of knowledge of home inspection procedures and components.

F. "**Complete Applications**" - An application for initial registration or renewal of registration which includes all required documents and forms, properly completed, accompanied by the required fees.

G. "**Continuing Education Credit (CEC)**" - Credit awarded for completion of one hour of an approved educational course or event. Also, see the definition of "hour" below.

H. "**Core subjects**" - Subject areas that are key to the conduct a comprehensive home inspection. They include: 1) Structural systems. 2) Exterior components of the weather shell of a residential structure less the roof. 3) Roof systems. 4) Plumbing Systems. 5) Electrical systems. 6) Heating and air conditioning systems. 7) Interior components. 8) Insulation and Ventilation systems. 9) Fireplaces and solid fuel burning appliances. 10) Installed appliances.

J. "**Executive sessions**"- Those meetings of the Arkansas Home Inspector Registration Board conducted for the purpose of disciplinary hearings, to determine whether to levy civil penalties under this Act, and/or for the purpose of determining whether to revoke or suspend any license or certificate issued pursuant to Act 1328 of 2003, and additionally, those permitted under the Freedom of Information Act for the purpose of considering employment, appointment, promotion, disciplining, or resignation of any public officer or employee.

K. "**Hour**" - A clock hour with at least fifty (50) continuous minutes of instruction as in a course or event. Instruction does not include breaks or time devoted to announcements or other

administrative tasks.

L. **“Inspector”** – Anyone who conducts a home inspection for compensation or holds himself out to be a home inspector.

M. **“Open public meetings”** - All meetings, formal or informal, special or regular of the Arkansas Home Inspector Registration Board except those classified as "Executive Sessions" under §17-52-308 A.C.A. and the Freedom of Information Act.

N. **“Publication”** - Making agendas, meeting minutes, Rules and Regulations, and all public, Board documents available to the public on the Internet, in an electronic format, or on paper.

P. **“Physical meeting” or “Physical Board Meeting”** – Meeting of the Board members in person versus a meeting conducted using electronic means such as telephone conference calls, internet, etc.

Q. **“Receipt date or Date of receipt”** - If delivered in person or by a delivery service, the date of physical receipt, during regular office hours, at the address which the Board directs be used. If delivered by U.S. Mail, the next business day after the postmark date is considered to be date of receipt.

R. **“Standards of Practice and Code of Ethics”** - A document delineating the minimum level of diligence to which a home inspector may perform in the conduct and reporting of a home inspection. The document also defines the minimum level of ethical behavior acceptable in conducting their home inspection practice. The Standards of Practice and Code of Ethics of the American Society of Home Inspectors, Inc. of Des Plaines, Illinois which were effective January 1, 2000 are the standards and code to be followed by persons conducting home inspections in Arkansas. However, when deemed necessary by the inspector, he may release appropriate information, or otherwise appropriately act, to prevent imminent danger to the public or the property occupant.

S. **“Training year”** - For the purposes of these regulations, a “training year” is a twelve month period beginning on November 1 and continuing through October 31 of the following calendar year.

200 - Organization And Staffing Of The Arkansas Home Inspector Registration Board

201 - Appointment of Board Members and terms of service:

- A. The board shall consist of seven (7) members to be appointed by the Governor as follows:
1. Four (4) members shall be registered home inspectors;
 2. One (1) member shall be a licensed real estate professional;
 3. One (1) member shall be a licensed real estate appraiser; and
 4. One (1) member shall be an at large member who shall serve as a consumer advocate.
- B. Successor appointed members shall serve two-year terms.
- C. Any vacancy that occurs on the board shall be filled by the Governor for the remainder of the unexpired term. If the unexpired term is longer than one year, it shall be considered a full term for the purposes of these regulations.
- D. Board members shall not serve more than three (3) consecutive terms of office.
- E. Board Officers: In May of each year, the Board shall elect from its membership, the following officers: Chairperson, Vice Chairperson, Secretary/treasurer. The officers shall serve twelve (12) month terms. A person may serve a maximum of two consecutive terms as board officer. After not being an officer for at least twelve (12) months, a member may be elected as an officer again and at that time may commence a maximum of two consecutive, twelve month terms.

202 - Administrative Support To The Board:

- A. Board Staffing:
1. Initially, the Board shall rely on the Office of the Secretary of State to provide administrative support as delineated in paragraph 202.B below.
 2. Upon determining that adequate resources are available, the Board may develop a staff or contract for a support organization to assume the administrative support of the Board. A written notice of intent to assume such functions shall be provided to the Secretary of State at least ninety (90) calendar days prior to the intended transfer date.
 3. Qualifications and salary levels for any permanent staff positions as may be created by the Board shall be determined by the Board and vacant staff positions will be filled following proper notice and advertising of the available positions with the State Employment Security Division and in accordance with all other State statutes regarding the hiring of public employees.
- B. Role Of The Secretary Of State (The Secretary): Until such time as the Board assumes all administrative functions related to its operation, the Secretary:
1. Shall be the custodian of permanent, official, home inspector registration files and shall maintain permanent records of all home inspector registration applications received since enactment of the original Arkansas Home Inspector Registration Act in 1997.
 2. Shall maintain the permanent records of the board.
 3. Shall receive and process applications for initial registration and renewal of registration.
 4. Respond to requests for general information, applications for registration or renewal of registration, complaint forms, or copies of documents. Matters which the Secretary's staff are not prepared to respond to may be referred to the appropriate Board member(s) designated by the Board chairperson.

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300 - Operation Of The Board

301 - Meetings: Except for certain matters appropriately dealt with in executive sessions, the business of the Board shall be conducted in public meetings. All meetings shall be conducted in accordance with the Arkansas Freedom of Information Act and the Arkansas Administrative Procedures Act and Act 1328.

A. General:

1. The board shall physically meet not less than two (2) times each calendar year to consider and act upon applications for initial registration and renewal of registration, complaints regarding registrants, and to transact other business as may properly come before it.

2. The board may conduct any additional meetings in person, by telephone conference call, or by other electronic means.

3. Dates, times, and places of meetings shall normally be decided by a majority vote of the members. However, the chairperson may call board meetings as he may feel are necessary.

4. Notice shall be given to each member of the board of the time and place of each meeting. The same information will be posted on the Internet after a suitable site becomes available.

5. The minutes of all meetings shall be prepared and made a permanent part of the records of the board, no later than seven (7) calendar days after the respective meeting.

6. A majority of the board shall constitute a quorum for transacting any business of the board.

B. Robert's Rules of Order shall be followed in the conduct of board meetings. Such rules may be modified as appropriate to accommodate expeditious conduct of electronic meetings.

302 - Duties Of Board Members: All Board members shall diligently attend and participate in Board Meetings and other business of the Board.

A. The Chairperson shall preside over all meetings at which he/she is present and act as the spokes person for the Board. He/she may assign duties to board members in addition to those specified herein. Likewise, the Chairperson may from time to time form temporary committees whose members are drawn from the citizens of Arkansas. The formation of any such groups shall be accomplished in writing and be for a specified period of time and purpose.

B. The Vice Chairperson shall preside over meetings in the absence of the Chairman or in any circumstance where the Chairman recuses himself in a matter being considered by the Board.

C. The Secretary/Treasurer shall be responsible for:

1. Preparation, publication, and maintenance of the minutes of Board meetings. As noted in paragraph 301.A.5 above, minutes shall be prepared and made a permanent part of the Board records within 7 days following the respective meeting

2. Preparation of correspondence and conduct of administrative support as the Chairperson may direct or as may be prescribed in these rules and regulations.

3. Instituting and maintaining a system of books and financial records satisfactory to the Director of the Department of Finance and Administration.

4. Maintaining the permanent records of the Board.

5. Notify the Governor's office whenever a member misses ~~XX-Board~~ 3 board meetings.

303 - Publication of Board documents: - All public documents, to include forms prescribed in these regulations, will be available on Board provided electronic media, (Internet, disks, etc.,) and on paper. Rules and Regulations will be available on the Secretary of State's Internet site in addition to any publication by the Board. The Board may assess a reasonable fee for providing documents on any media other than the Internet.

304 - Applications And Forms: All applications for registration, school approval, and pre-registration courses and similar actions shall be made on forms prescribed by the Board.

305 - Board Compensation and Expense Reimbursement: - Each member of the Arkansas Home Inspector Registration Board may receive expense reimbursement and a per diem allowance as compensation for each meeting of the Board at which the member is present and for each day or substantial part thereof actually spent in the conduct of the business of the Board, plus all appropriate expenses as approved by the Board. Appropriate expenses are those which a member of the Board necessarily incurs in the discharge of his/her official duties. Requests for compensation or reimbursement of appropriate expenses shall not be processed for payment unless sufficient funds are available for that purpose within the appropriations for this Board.

400 - Rule Making: - From time to time, the Board will promulgate Rules and Regulations under the authority granted by the Legislature, in A.C.A §17-52-306 to implement the provisions of the Act. Such rules and regulations shall be consistent with the Act and be in the collective, best overall interest of consumers of home inspection services in Arkansas, home inspectors who provide those services, and all citizens of the State of Arkansas. The Board follows the procedural requirements of the Arkansas Administrative Procedure Act, in particular A.C.A. §25-15-203 and §25-15-204. Additionally, the Board is required to abide by the provisions of A.C.A. §10-3-309.

401 – Initiation of Rule-Making: - The process of adopting a new rule or amending or repealing an existing rule (hereinafter referred to “rule-making”) may be initiated by the Board by asking the staff or a committee to submit proposed drafts. Additionally, the Board staff may request-permission of the Board to initiate rule-making. Third persons outside the Board may petition for the issuance, amendment, or repeal of any rule.

402 – Petition to Initiate Rule-Making: - Third parties may initiate rule-making to adopt, amend, or repeal a rule by filing a petition with the Board to initiate rule-making. The petition must contain the name, address, and telephone number of the petitioner, the specific rule or action requested, the reasons for the rule or action requested, and facts showing that the petitioner is regulated by the Board or has a substantial interest in the rule or action requested.

A. The petition to initiate rule-making shall be filed with the Board secretary.

B. Within thirty (30) days after submission of the petition, the Board will either deny the petition, stating its reasons in writing, or will initiate rule-making. A special meeting will be called if necessary to meet this time frame.

403 – Public Input: - Before finalizing language of a proposed new rule or an amendment to, or repeal of, an existing rule, the Board will receive public input through written comments and/or oral submissions. The Board will designate in its public notice the format and timing of public comment.

A. Any public hearing will provide affected persons and other members of the public a reasonable opportunity for presentation of evidence, arguments, and oral statements within reasonable conditions and limitations imposed by the Board to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings.

B. The Board chair, any member of the Board, or any person designated by the Board may preside at the public hearing. The Board must ensure that the Board personnel responsible for preparing the proposed rule or amendment are available, and will notify third parties initiating rule changes to be available to explain the proposal and to respond to questions or comments regarding the proposed rule.

C. The Board must preserve the comments made at the public hearing by a certified court reporter or by recording instruments.

D. Any person may submit written statements within the specified period of time. All timely, written statements will be considered by the Board and be made a part of the rule-making record.

404 – Notice of Rule-Making: - The Board will give notice of proposed rule-making to be published pursuant to A.C.A. §25-15-204. The notice will set any written comment period and will specify the time, date, and place of any public hearing.

405 – The Decision To Adopt A Rule: -

A. The Board will not finalize language of the rule or decide whether to adopt a rule until the period for public comment has expired.

B. Before acting on a proposed rule, the Board will consider all of the written submissions and/or oral submissions received in the rule-making proceeding or any memorandum summarizing such oral

submissions, and any regulatory analysis or fiscal impact statement issued in the rule-making proceedings.

C. The Board may use its own experience, specialized knowledge, and judgment in the adoption of a rule.

406 – Variance Between Adopted Rule and Published Notice of Proposed Rule: -

A. The Board may not adopt a rule that differs from the rule proposed in the published notice of the intended rule-making on which the rule is based unless:

1. The final rule is in character with the original scheme and was a logical outgrowth of the notice and comments stemming from the proposed rule, or
2. The notice fairly apprised interested persons of the subject and the issues that would be considered so that those persons had an opportunity to comment.

B. In determining whether the final rule is in character with the original scheme and was a logical outgrowth of the notice and comments, and that the notice of intended rule-making provided fair warning that the outcome of that rule-making proceeding could be the rule in question, the Board must consider the following factors:

1. The extent to which persons who will be affected by the rule should have understood that the rule-making proceeding on which it is based could affect their interests; and
2. The extent to which the subject matter of the rule or issues determined by the rule are different from the subject matter or issues contained in the notice of intended rule-making; and
3. The extent to which the effects of the rule differ from the effects of the proposed rule contained in the notice of intended rule-making.

407 – Concise Statement of Reasons: -

A. When requested by an interested person, either prior to the adoption of a rule or within thirty (30) days after its adoption, the Board shall issue a concise statement of the principal reasons for and against its adoption of the rule. Requests for such a statement must be in writing and be delivered to the Board secretary. The request should indicate whether the statement is sought for all or only a specified part of a rule. A request will be considered to have been submitted on the date on which it is received by the Board secretary.

B. The concise statement of reasons must contain:

1. The Board's reasons for adopting the rule;
2. An indication of any change between the text of the proposed rule and the text of the rule as finally adopted, with explanations for any such change; and
3. The principal reasons urged in the rule-making procedure for and against the rule, and the Board's reasons for overruling the arguments made against the rule.

408 – Contents Of Rules: - The Board shall cause its rules to be published and made available to interested persons. The publication must include:

A. The text of the rule;

B. A record of changes containing the following:

1. Change number
2. The date(s) the Board adopted or amended the rule;
3. The effective date(s) of the rule;
4. Any findings required by any provisions of law as a prerequisite to adoption for effectiveness of the rule; and
5. Citation to the entire specific statutory or other authority authorizing the adoption of the rule;

409 - Format: - By July 1, 2005, the Board shall revise its rules to number them in accordance with the standards established by the Secretary of State in compliance with A.C.A. 25-25-328(d).

410 – Incorporation By Reference: - By reference in a rule, the Board may incorporate all or any part of a code, standard, rule, or other matter if the Board finds that copying the matter in the Board’s rule would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the Board rule must fully and precisely identify the incorporated matter by title, citation, date, and edition, if any; briefly indicate the precise subject and general contents of the incorporated matter; and state that the rule does not include any later amendments or editions of the incorporated matter. The Board may incorporate such a matter by reference in a proposed or adopted rule only if the Board makes copies of the incorporated matter readily available to the public. The rules must state how and where copies of the incorporated matter may be obtained at cost from the Board, and how and where copies may be obtained from an agency of the United States, this state, another state, or the organization, association, or persons originally issuing that matter. The Board must retain permanently a copy of any materials incorporated by reference in a rule of the Board.

411: Filing: - After the Board formally adopts a new rule or amends a current rule or repeals an existing rule, and after the rule change has been reviewed by the Legislative Counsel, the staff will file final copies of the rule with the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research, or as otherwise provided by A.C.A. §25-15-204(d), §25-15-218 and §10-3-309.

A. Proof of filing a copy of the rule, amendment, or repeal with the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research will be kept in a file maintained by the board secretary.

B. Notice of the rule change will be posted on the Board Internet site (if available.)

412 – Emergency Rule-Making: The proponent of a rule may request the Board to adopt an emergency rule. In addition to the text of the proposed rule or amendment to an existing rule and any other information required by paragraphs 401 and 402 of these rules, the proponent will provide a written statement setting out the facts or circumstances that would support a finding of imminent peril to the public health, safety, or welfare.

A. Finding of An Emergency: Upon receipt of the written statement requesting an emergency rule-making and documents or other evidence submitted in support of the assertion that an emergency exists, the Board will make an independent judgment as to whether the circumstances and facts constitute an imminent peril to the public health, safety, or welfare requiring adoption of the rule upon fewer than 30 days notice. If the Board determines that the circumstances warrant emergency rule-making, it will make a written determination that sets out the reasons for the Board’s finding that an emergency exists. Upon making this finding, the Board may proceed to adopt the rule without any prior notice or hearing, or it may determine to provide an abbreviated notice and hearing.

B. Effective Date of Emergency Rule: The emergency rule will be effective immediately upon filing, or at a stated time less than ten (10) days thereafter, if the Board finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. The Board will file with the rule its written findings justifying the determination that emergency rule-making is appropriate and, if applicable, the basis for the effective date of the emergency rule being less than ten days after the filing of the rule pursuant to A.C.A. §25-15-204(e). The Board will take appropriate measures to make emergency rules known to persons who may be affected by them.

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500 - Who Must Register and General Qualifications

501 - Who Must Register: All persons who advertise as a home inspector, undertakes or attempts to undertake the conduct of a home inspection for a fee, in the State of Arkansas, shall first register with the Board and comply with the Act and the provisions of these Rules and Regulations.

502 - General Qualifications for Registration - The Board shall approve and issue registrations to qualified applicants or disapprove applications for registration for applicants who do not meet the minimum requirements for registering as prescribed in the Act. The best interest of the public shall be given due regard when considering each applicant for registration. Every applicant to the Arkansas Home Inspector Board as a State Registered Home Inspector shall have the following qualifications:

- A. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a registered Home Inspector in such a manner as to safeguard the interests of the public.
- B. The applicant shall meet the current educational and experience requirements for registration prior to the time he or she applies for registration.
- C. A non-resident applicant shall be in good standing as a Home Inspector in every jurisdiction where licensed or registered. The applicant shall not currently have a registration or license which is suspended, revoked, or surrendered in connection with a disciplinary action or which is the subject of discipline in any jurisdiction prior to applying for registration in Arkansas.
- D. An application for registration or renewal may be denied if the applicant has been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude, of any felony, or is currently adjudicated as being insane. Any plea of nolo contendere shall be considered a conviction for the purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.
- E. The applicant shall be at least 18 years old at the time he submits his application.
- F. Applicants who do not meet all of the foregoing requirements and qualifications may nevertheless be approved for registration by resolution of the Board. However, detailed records and an explanation of that action must be made part of that person's registration records.
- G. All applications for registration, licensing, certification, renewal, examination, or reinstatement shall be made on forms provided by the Board and completed and signed by the applicant. All applications shall include the appropriate fees. The Board will not approve an application which is incomplete or is submitted without the correct fees.
- H. The Board may require each applicant for registration to furnish, at his/her expense, a recent passport-type photograph of him/herself, as well as any other information or form of identification deemed necessary by the Board to determine the applicant's qualifications for registration.
- J. The Board reserves the right, at its discretion, to hold for a reasonable length of time for investigation, the application of any applicant before issuing a registration certificate.

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600 - Arkansas Home Inspectors Registration Fund (as established by the Act:)

601 – Collection, Safeguarding, And Disbursement of Monies: All funds, fees, charges, costs and collections accruing to or collected under the provisions of the Act shall be deposited into the State Treasury to the credit of this fund.

A. The funds shall be used for the purposes as specified in the Act.

B. All funds, fees, charges, costs, and collections accruing to or collected by the Secretary of State, shall be deposited quarterly into the Arkansas Home Inspector Registration Fund.

C. The board will authorize and process disbursements of those funds as necessary in the administration of this chapter. It shall be the policy of the Board to act in a conservative, prudent manner with respect to all expenses and reimbursements incurred by the Board.

602 - Fees: Fees are hereby set as follows:

A. Initial registration fee: \$250.00 per calendar year, prorated based upon date of receipt of the application and payment, as follows:

 If date of receipt is in January through June: \$250.00

 If date of receipt is in July through December: \$375.00

 (Includes registration through December 31 of the following calendar year.)

B. Registration renewal fee: \$250.00 per calendar year (non-prorated and non-refundable.) Deadline for receipt of the renewal application and fee is December 1_{st} of the year in which a current registration expires.

C. Delinquent renewal fee: Is a fee which must be paid in addition to the renewal fee for all renewal applications received after the renewal deadline of December 1 of each year. It is also imposed when document(s) to make an application complete are not received until after the renewal deadline. That fee is \$250.00 and is non-refundable.

D. Replace lost or damaged registration certificate card: \$15.00

E. Fee to update Internet listing content (other than at initial registration or annual renewal): \$15.00

F. Fee for checks returned for insufficient funds: Bank Charge plus \$10.00 (Not to exceed \$25.00)

G. Inspector training or continuing education provider fees: (Each includes a one course, curriculum, or event agenda unless otherwise specified.)

 Initial qualifying fee: \$200.00/year (Nov 1 - Oct 31)

 Annual renewal fee \$150.00/year (Nov 1 - Oct 31)

 Additional course filing fee: \$25.00

 (Per course, curriculum, or single event agenda.)

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700 - Initial Registration And Renewal Of Registrations: All persons applying for registration or renewal of registration, as a home inspector, shall be of good moral character.

701 – Requirements For All Applicants: All applicants shall submit to the board:

A. An application, on a form prescribed by the Board. No person who is registered under one (1) name as provided in these regulations shall engage in business as a home inspector under any other name unless the other name(s) is also included on the most recent application and is also registered.

B. The original copy of a current certificate of insurance, issued by an insurance company licensed, or surplus lines approved, to do business in the state of Arkansas, showing that the applicant has procured general liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00) (If a current certificate is already on file with the Board, note that fact on the application and submit a new certificate not later than the renewal date of the policy.) The certificate must include the following information:

1. Name and address of the insured.
2. Name, business address, and telephone number of the person and agency issuing the certificate.
3. Name of the firm providing the insurance.
4. Coverage being provided (a minimum of \$100,000 general liability.)
5. The insurance policy number.
6. The “Arkansas Home Inspector Registration Board” named as the certificate holder.
7. The effective dates of the coverage.
8. Signature of the issuing agent.
9. Cancellation and notification requirements as specified in §17-52-318(a) & (b) of the Arkansas Code Annotated.

C. The required registration or registration renewal fee (see paragraph 602 above,) shall accompany the application.

702 – Additional Requirement For First Time Applicant (Competency Examination): A person applying for registration for the first time shall have his signature witnessed by a notary public. He shall submit with the application certified copies of documents attesting to the successful completion of the competency examination. For the purposes of this state, the examination consists of two parts; the current version of the *National Home Inspector Examination* (NHIE) as provided by the Examination Board of Professional Home Inspectors, Inc., 932 Lee Street, Suite 202, Des Plaines, Illinois 60016 and the current version of the *Standards and Ethics Examination* as provided by the American Society of Home Inspectors® also of Des Plaines, Illinois.

703 – Additional Requirements For Renewal of Registration: Effective in 2004, and thereafter:

A. All persons who have been registered more than 12 months and are renewing a current registration, in addition to the requirements of paragraph 701, shall submit a AHIRB Form CE-1 that establishes that he/she has satisfactorily completed the continuing education requirements in the proceeding training year. The form shall be completed in its entirety and attached to the registration renewal application. Failure to do so will be adequate basis for denial of registration renewal without further action by the Board. See paragraph 801 below, for the continuing education requirements.

B. Penalties For Unsubstantiated Data On Continuing Education Claim Form: Submission of a Continuing Education Claim Form whose content cannot be substantiated may be the basis for denial of registration renewal or revocation of a previously renewed registration and punitive actions as may be levied by the Board based on the facts of the particular circumstances involved.

C. As stated in §17-52-307 A.C.A., as part of an investigation or as a condition of renewal, the Board may require an inspector to submit inspection reports and other documents to be reviewed by the

board. Further, requests by the board for copies of inspection reports shall supersede any contract of client privacy or confidentiality, whether written or oral.

704 – Certificates of Registration: Certificates of registration shall be issued to an applicant after compliance with the registration or renewal requirements of this section and approval by the board. No registration or renewal of registration will be issued if any the requirements in this section are not fully complied with.

A. Certificates shall be consecutively numbered. The number shall be preceded with a “HI-“ prefix and the numbers assigned shall be an extension of the series started when registration of home inspectors began in Arkansas in 1997. Numbers are unique to individual inspectors and no number shall be assigned to another person.

B. When a registration is renewed, or reinstated, that person's registration number shall be perpetuated.

C. Certificates of registration of a home inspector shall be issued for a period of at least one (1) year and shall expire at the end of a period of up to three (3) years, as may be set by the board.

D. Registration certificates shall be maintained in sound, fully legible condition and shall be replaced as needed to do so. The inspector shall have his registration certificate with him at the inspection site and shall present it to anyone who may so request.

705 – Changes In Registration Data: Persons who are registered or who have an application of any kind pending before the Board are responsible for notifying the Board of any changes in information provided on their application. Changes shall be submitted on AHIRB Form AP-1 not later than two weeks after the change becomes effective.

706 - Renewal Of Lapsed, Suspended, Or Otherwise Inactive Registrations: (To be published at a later time .)

707 – Notification Of Impending Expiration of Registration: The Board shall mail a notice of upcoming registration expiration and a renewal application, to each currently registered inspector no more than sixty (60) days and no less than forty-five (45) days before the expiration date of his or her registration. All applications for renewal must be received by the Board not later than December 1 of the year in which the registration expires.

708 – Inactive Registration Status: (To be published at a later time.)

709 – Reciprocal Agreements With Other Political Entities: (To be published at a later time.)

800 - Continuing Education: - To maintain and upgrade the knowledge and skill levels of home inspectors practicing in Arkansas, each such inspector shall participate in the Home Inspector Continuing Education Program. Only continuing education obtained from providers approved in accordance with this section shall be accepted to meet this requirement.

801 - Required CEC Hours And Submission And Retention Of Documents: - As a condition of registration renewal, each inspector shall complete a minimum of fourteen (14,) approved continuing education credit (CEC) hours during the training year preceding submission of his/her renewal application. The Board may require certain subject matter. If that is the case, appropriate notification and information regarding sources of the training will be provided in a timely manner, to all registered inspectors. Failure to complete continuing education requirements shall result in the suspension of the home inspector's registration. §17-52-310(e)(1) A.C.A.

A. No more than four (4) hours of continuing education hours per training year may be from correspondence courses or other distance learning sources. Likewise, no more than four (4) hours may be in subject matter outside the core subjects. All continuing education credits must be for subjects logically related to home inspections and ancillary services. The Board has final decision authority with respect to acceptable subjects.

B. An inspector can claim continuing education credits for a given course, only once within two consecutive training years, even if he has successfully completed the course multiple times.

C. To insure that continuing education credits will be granted, courses must be approved by the Board before the courses are presented. If unforeseeable circumstances preclude approval prior to presentation, a non-profit home inspector professional association or state agency, presenting or sponsoring training in core subjects, may submit a request for approval up to ten (10) calendar days after the conclusion of the course. An explanation of the circumstances involved must accompany the approval request. The same decision criteria shall be applied by the Board whether the approval being sought is considered before or after the course presentation.

D. Up to ten CEC hours, earned in a training year, in excess of the minimum required, may be carried over and applied to the following year's requirement.

E. Certificates and other documents which substantiate the continuing education hours listed on the AHIRB Form CE-1 will be retained by the inspector for at least 2 years after submission of the CE-1. The Board may select inspectors randomly, or for cause, to submit full sets of substantiating documents. Any such submissions shall be made within the time period specified in the request issued by the Board.

F. Preparation and education accomplished for initial registration shall be accepted as fulfilling the continuing education requirement until the first, registration renewal after the calendar year in which the original registration took place.

802 – Hardships: Upon appropriate showing of a bona fide health or other hardship, the Board may consider and grant an individual exception to the continuing education requirements.

A. Loss of income resulting from cancellation of a license is not a bona fide hardship.

B. Requests for exceptions shall be submitted in writing not less than sixty days prior to the date of license renewal and shall include an explanation and verification of the hardship.

C. Exceptions may include but are not be limited to:

1. Individuals serving in military service; and

2. Individuals who have a temporary physical impairment which prevented them from attending courses.

803 - School And Course Approval For Continuing Education: Each school, institution or organization desiring to offer continuing education courses for home inspectors shall submit a formal filing to the Board for each course for which approval is sought.

A. The filing for each course shall include, but not be limited to, the following:

1. Name and Address of provider or sponsor.
2. Proposed location of classroom and dates of training.
3. The topics to be offered, the instructors for each, and the number of clock hours for each topic.
4. Instructor lecture outlines and copies of any handout materials or texts to be provided to the students.

5. Resume for each instructor. It must include name and address and any other pertinent contact information plus information which establish his expertise to teach the subject.

6. For seminars that will provide 50% or more of the annual continuing education requirement, a seminar brochure will also be provided.

7. Copies of an advertising plan and of advertisements to be used.

8. A copy of the certificate or affidavit which will provided to the inspector after completion of the course/seminar.

9. Detailed information about tuition or other costs to attend the training event.

B. Approval, Conditional Approval, or Non Approval by the Board:

1. Approvals shall be forwarded the school as submitted.

2. Conditional Approval shall allow the school to continue to proceed with the education presentation provided they correct Board stipulated deficiencies prior to the date of presentation and receive final approval from the Board.

3. Non Approval shall require the proposed training to be halted and a new submission made to the Board. The Board shall cite the major deficiencies in the proposed training.

C. Non-profit professional home inspector organizations and corporations may be exempt from Inspector training or continuing education provider fees as set forth in paragraph 602 above. However, they must submit a properly completed application for approval as a continuing education provider, accompanied by copies of their charter, by-laws, incorporation papers, or other documents, acceptable by the Board, which clearly and unequivocally demonstrates a non-profit character for their organization.

D. For-profit firms, organizations, and corporations must submit a properly completed application for approval as a continuing education provider accompanied by the Inspector training or continuing education provider fees specified in 602 above.

E. No course of less than one (1) hour will be approved.

F. Correspondence and other distance learning courses may be permitted for continuing education credit as approved by the Board.

G. Each school, institution or organization shall submit an updated course filing containing any changes from the previous offering within each two year period from original approval date.

804 - Course Content:

A. The content of continuing education programs shall be consistent with current home inspection licensing laws and with inspection practices that are broad-based and essential to the role of a home inspection general practitioner. The content shall directly relate to home inspection principles and practices such as described in these regulations or to new developments in the fields for which licensees have a demonstrated need.

B. The Board shall not approve offerings in mechanical office and business skills such as typing, speed-reading, memory development, personal motivation, salesmanship, sales psychology, sales promotions or other meetings held in conjunction with the general business of a home inspector. Generally, acceptable courses may include, (but are not limited to) these topics related to residential real property of four or less residences:

1. Home inspection laws and regulations;
2. Structural systems;
3. Foundations;
4. Interior walls, doors, ceilings and floors;
5. Exterior wall claddings and doors, windows, and door glazing;
6. Solid fuel heating devices and chimneys;
7. Roof coverings, roof structure, and attic;
8. Porches and decks;
9. Mechanical systems (heating, piping and cooling solar work);
10. Inspection guidelines for appliances;
11. Inspection guidelines for house air heating and cooling systems;
12. Inspection guidelines for ducts, vents (including dryer vents) and flues;
13. Plumbing systems
14. Inspection guidelines for plumbing systems and their components (drain, waste, vent, water, gas);
15. Electrical systems (for heat, light, power, system controls, and other purposes);
16. Electric service entrances and panels, branch electrical circuits, connected devices and fixtures;
17. Home inspection documents, forms, contracts, warranties;
18. Water supply systems (drilled wells/community water supplies);
19. Fire protection sprinkler systems;
20. Report writing, and legal ramifications of report content.

805 – Submission of Approval Requests: Requests may be submitted at any time but must be received by the Board not later than September 15 to be included in the initial *Approved Continuing Education Provider* list for the following training year. That list will normally be published and made available to registered inspectors during the first week of November each year. The list will be updated periodically throughout the year. Requests related to a specific event must be submitted at least 45 calendar days prior to the event to allow time for the Board to act on the request. Any approval granted shall be for a maximum of one year. Approval for one period, does not guarantee approval for any other period.

806 - Notification Of Continuing Education Course Offering And Locations:

- A. Each school, institution or organization conducting an approved course shall, at least ten days prior to the first scheduled session of each course, submit to the Board a schedule of the dates, hours, locations, tuition fees and instructors for each course to be offered. No courses shall commence, or be advertised as approved, without prior written approval of the Board. There shall be no change or alteration in any approved course without prior written notice and approval of the Board. Course approval may be withdrawn for failure to comply with the provisions of these regulations.
- B. Each school shall submit a listing identifying all locations where courses are offered to the Board for prior approval. Each course of study shall be conducted in a classroom or other facility which is adequate to implement the offering.

807 - Advertising Restrictions: All schools advertising continuing education courses shall comply with the following requirements:

- A. All advertising and written or oral statements shall avoid the use of exaggerated or un-provable claims and misrepresentations. In discussing or describing a student's possible or potential economic future in the field of home inspection, no misleading or deceptive claims may be made.
- B. In advertising, no school, institution or organization shall use the wording "Approved by the Board" or other like wording. The following wording may be used: "This continuing education

course meets the minimum requirements as set forth by the Arkansas Home Inspector Registration Board".

808 – Attendance Policies: Providers of Continuing Education shall have and adhere to a published attendance policy. As a minimum, the policy shall provide that a student not be absent more than fifteen percent of the approved hours of training

- A. Attendance shall be accurately recorded in no more than two (2) hour increments.
- B. Programs of study will be reported in clock hours.

809 - Documents To Be Provided To Continuing Education Participants by the Provider:

Certificates will be provided to all inspectors attending continuing education.

A. Those certificates will contain the following information: Name of school, provider or sponsor. Name of student with Arkansas registration number. Course Title and approval number assigned by the Board. Course location. Number of approved continuing education hours and Signature of approving authority and/or instructor.

B. The certificates shall be not be smaller than 4x5 inches nor larger than 8½ x11 inches.

C. Continuing Education providers will maintain copies of the documents which include Board approval of their education offerings and academic records for all students who enrolled. Likewise the records must identify those students who successfully completed the educational offerings. Those records must be retained at least two years.

810 – Courses Audits:

A. The Board or its chairman may appoint appropriately qualified persons to audit continuing education courses or offerings. Letters of appointment will be provided to the auditors for auditor identification/authorization purposes and to provide instructions for the audit(s.)

B. Any educational course/offering which has been approved or is pending approval by the Board may be audited. Such audits may be announced or unannounced to the course provider. The provider will waive all fees for the course and any texts or hand out materials. Upon completion of the audit, the auditor will prepare a Results Of Audit report and submit it to the Board as directed in his appointment letter. The Board will notify course providers of the outcome of such audits.

C. Failure of a provider to substantially follow the course outline submitted with the approval request may result in denial or revocation of Board approval. Likewise, the Board may assign a probationary status to a course and request specific corrections be made. Follow-up audits may be made to evaluate whether appropriate corrections have been made and whether further action is warranted.

D. Auditors who personally pay the attendance fees for a course which is approved or later approved, may choose to take continuing education credits and apply it to their annual requirement. Otherwise, they may not claim the credits.

811 – Hearings Regarding Denial Or Revocation Of School Or Course Approval.

A. Upon the refusal of the Board to approve a school, institution or organization for the offering of continuing education courses or a particular course, or upon the decision of the Board to withdraw such approval, the Board shall notify the applicant of the denial and of his right to request a hearing within thirty days from the date of receipt of the notice of denial.

B. In the event the applicant requests a hearing within such thirty days, the Board shall give notice of the grounds for its refusal to approve and shall conduct a hearing concerning such refusal in accordance with the provisions of the Arkansas Administrative Procedures Act.

900 – Pre-registration Home Inspector Education - This section will be published at a later date.

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1000 - The Practice of Home Inspection In Arkansas- This section will be published at a later date.

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1100 - Complaint Process: The Board will consider properly submitted complaints against persons holding themselves out to be home inspectors in Arkansas whether or not those persons are or were properly registered as home inspectors in the state. The authority to do so is §17-52-302(3) and §17-52-306(4) A.C.A.. The complaint process is not a substitute for civil courts and is not a venue for restitution for the complainant. In the complaint process, the Board only considers; “Was the inspector properly registered at the time of the inspection? Does his report indicate that he was in substantial compliance with the standards of practice? and, Did the inspector comply with the code of ethics?” (Also see paragraph 103.R above.) If the answer to any of these questions is “no” or violations of the Act or these rules are discovered, the inspector may be disciplined following the procedures in Section 1200 below.

1101 –Procedure For The Board’s Handling Of Complaints: - The board will consider a complaint against a home inspector provided the following have been complied with:

A. Before submitting a complaint to the Board, the complainant shall contact the inspector involved in writing, clearly stating the specific complaint and the remedy desired.

1. Before any modification or repairs are made to the conditions giving rise to the complaint, the inspector shall be given reasonable opportunity to view and discuss those conditions with the complainant. When the nature of those conditions are such as to present an unsafe condition or failure to act will cause further damage, the complainant should so advise the inspector and may make any minimal changes needed to protect life and preserve and protect the property.

2. Should the process, in 1 just above, fail to produce a mutually agreeable resolution of the complaint, the aggrieved may submit a complaint to the Board.

B. Complaints shall be submitted on a board prescribed form. All instructions on the form must be complied with. All communications related to complaints shall be in writing or be documented in writing with copies provided to all parties named in such document. Upon receipt of a complaint:

1. The Board shall acknowledge to the complainant in writing that their complaint has been received.

2. If a vague or incomplete complaint is received, the Board may notify the complainant that additional information is needed and may hold the complaint without further action until the shortcomings of the complaint submission are resolved to the satisfaction of the Board.

C. Upon receipt of a properly completed complaint, the Board shall:

1. Send a letter of notification to the inspector involved, at his last known address, that a complaint has been received.

2. Provide a copy of the complaint to the inspector.

3. Direct him to respond to the Board within fourteen (14) calendar days of the date on the notification letter. Passage of those 14 days constitutes completion of preliminary processing of the complaint whether the inspector responds or his response has been received.

4. Schedule action on the complaint. When preliminary processing is complete, a complaint will be added to the agenda for the next board meeting which is ten days or more away.

D. The Board shall review and act on complaints on the meeting agenda. Based upon the facts pertinent to each complaint, the Board may propose a final course of action, set a further course of action, or delay action until a specified time. In any case, within seven calendar days, the Board shall notify parties to the complaint of the action(s) taken. Any penalties proposed may be appealed at the next physical meeting of the board before final action is taken.

E. Should the parties to a complaint reach resolution of the complaint prior to final action by the Board, the complainant, shall notify the Board in writing. The notification shall include a description of the resolution.

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1200 - Disciplinary Process The Act grants the Board a wide range of disciplinary powers in §17-52-308 A.C.A.. The Board shall exercise those powers judiciously and consistent with the purpose and responsibilities of the Board.

1201 Grounds for Disciplinary Action: The Board may, upon its own motion or upon written complaint of any person, and after notice and hearing as prescribed by the Administrative Procedures Act, suspend or revoke the registration of any registered home inspector, place the inspector on probation contingent upon specified acts or conditions and/or issue a fine up to the amount of \$1,000 per occurrence for:

- A. Violation of any provision of 17-52-301 A.C.A. et seq or any of these rules.
- B. Falsifying any application for registration or otherwise providing any false information to the Board.
- C. Conviction in any jurisdiction of any misdemeanor involving moral turpitude or of any felony. A plea of nolo contendere or no contest shall be considered a conviction for the purposes of this section.
- D. Any actions demonstrating un-trustworthiness, incompetence, dishonesty, gross negligence, material misrepresentation, fraud or unethical conduct in any dealings subject to the Act or these regulations;
- E. Adjudication of insanity;
- F. Use of advertising or solicitation which is false, misleading, or is otherwise deemed unprofessional by the Board;
- G. Employing directly or indirectly any unregistered person to perform any actions subject to the Act or these regulations unless under the direct supervision of a properly registered home inspector.
- H. Habitual or excessive use of intoxicants or illegal drugs;
- J. Failure to meet continuing education requirements within the proper time period.
- K. Failure to complete inspection reports which are in substantial compliance with the Standards Of Practice or failure to comply with the Code of Ethics. (Also see paragraph 103.R above.)

1202 – Adjudication: These rules shall apply in all administrative adjudication conducted by the Board. These procedures will be the process used by the Board to formulate orders, for example, an order revoking a registration or imposing civil penalties.

- A. Presiding Officer: - "Presiding Officer" means the person who presides at a hearing. The Board will designate a hearing officer, the Board Chair, or other qualified person as the presiding officer.
- B. Appearances: - Any party who appears in any adjudicatory proceeding has the right, at his own expense, to be represented by counsel.
- C. The respondent may appear on his own behalf.
- D. An attorney representing a party to an adjudicatory proceeding shall promptly file notice of appearance with the board secretary.
- E. Service on counsel of record shall be the equivalent of service on the party represented.
- F. On written motion served on the party represented and all other parties of record, the presiding officer may grant counsel of record leave to withdraw for good cause shown.
- G. Consolidation: If there are separate matters that involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.
- H. Notice to Interested Parties: If it appears that the determination of the rights of parties in a proceeding will necessarily involve a determination of the substantial interests of persons who are not parties, the presiding officer may enter an order requiring that an absent person be notified of the proceeding and be given an opportunity to be joined as a party of record.

J. Service of Papers: Unless the presiding officer otherwise orders, every pleading and every other paper filed for the proceeding, except applications for witness subpoenas and the subpoenas, shall be served on each party or the party's representative at the last address of record.

K. Initiation and Notice of Hearing.

1. The Board initiates an administrative adjudication by issuing a notice of hearing.

2. The notice of hearing will be sent to the respondent by U. S. Mail with Restricted Delivery to the named recipient. Certified and Return Receipt Requested. Notice shall be sufficient if it is addressed to the respondent's latest address on file with the Board.

3. Notice will be mailed at least thirty (30) days before the scheduled hearing.

4. The notice will include:

a. A statement of the time, place, and nature of the hearing,

b. A statement of the legal authority and jurisdiction under which the hearing is to be held,

and

c. A short and plain statement of the matters of fact and law asserted.

L. Motions: All requests for relief shall be by motion. Motions shall be in writing, or made on the record during a hearing, and shall fully state the action requested and the grounds relied upon. The original written motion shall be filed with the Board. When time allows, the other parties may, within seven (7) days of the service of the written motion, file a response in opposition. The presiding officer shall conduct such proceedings and enter such orders as are deemed necessary to dispose of issues raised by the motion.

M. Answer: A respondent may file an answer.

N. Discovery: Upon written request, the Board will provide the information designated in A.C.A. §25-15-208(a)(3). Discovery requests should be received by the Board at least ten (10) days before the scheduled hearing.

P. Continuances: The Chairman, or the Vice Chairman (in the absence of the chairman) may grant a continuance of hearing for good cause shown. Requests for continuances should be made in writing, shall state the grounds therefore and shall be made as soon as practicable and, except in cases of emergencies, no later than five (5) days prior to the date noticed for the hearing.

1. In determining whether to grant a continuance, the Chairman or Vice Chairman may consider:

a. Prior continuances,

b. The interests of all parties,

c. The likelihood of informal settlements,

d. The existence of an emergency,

e. Any objection,

f. Any applicable time requirement,

g. The existence of a conflict of the schedules of counsel, parties, or witnesses,

h. The time limits of the request, and

j. Other relevant factors.

2. The Board may require documentation of any grounds for continuance.

Q. Hearing Procedures:

1. The presiding officer presides at the hearing and may rule on motions, require briefs, issue a proposed decision, and issue such orders as will ensure the orderly conduct of the proceedings.

2. All objections shall be timely made and stated on the record.

3. Parties have the right to participate or to be represented by counsel in all hearings or pre-hearing conferences related to their case.

4. Subject to terms and conditions prescribed by the Administrative Procedures Act, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and upon request by the Board, may submit briefs and engage in oral argument.

5. The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

6. The presiding officer has the discretion to sequester witnesses during the hearings.

R. Order of Proceedings: The presiding officer shall conduct the hearing in the following manner:

1. Presiding officer shall give an opening statement briefly describing the nature of the proceedings;

2. The parties shall be given opportunity to present opening statements;

3. The parties shall present their cases in the sequence determined by the presiding officer;

4. Each witness shall be sworn or affirmed by the presiding officer, or the court reporter, and be subject to examination and cross-examination as well as questioning by the Board. The presiding officer may limit questioning in a manner consistent with the law;

5. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

S. Evidence.

1. The presiding officer shall rule on admissibility of evidence and may, when appropriate, take official notice of facts in accordance with all applicable requirements of law.

2. Stipulation of facts is encouraged. The Board may make a decision based on stipulated facts.

3. Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to prepare on the additional issue and to permit amendment of pleadings.

4. A party seeking admission of an exhibit must provide ten (10) copies of each exhibit at the hearing. The presiding officer shall provide the opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

5. Any party may object to specific evidence or may request limits on the scope of the examination or cross-examination. A brief statement of the grounds upon which it is based shall accompany such an objection. The objection, the ruling on the objection and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve the ruling until the written decision.

6. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, enter the testimony in the record. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

7. Irrelevant, immaterial and unduly repetitive evidence shall be excluded. Any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.

8. Reasonable inferences. The finder of fact may base its findings of fact upon reasonable inferences derived from other evidence received.

T. Default: If a party fails to appear or participate in an administrative adjudication after proper service of notice, the Board may proceed with the hearing and render a decision in the absence of the party.

U. Subpoenas: -

1. At the request of any party, the Board shall issue subpoenas for the attendance of witnesses at the hearing. The requesting party shall specify whether the witness is also requested to bring documents and reasonably identify said documents.

2. A subpoena may be served by any person specified by law to serve process or by any person who is not a party and who is eighteen (18) years of age or older. Delivering a copy to the person named in the subpoena shall make service. Proof of service may be made by affidavit of the person making service, if not served by a person specified by law to serve process. The party seeking the subpoena shall have the burden of obtaining service of the process and shall be charged with the responsibility of tendering appropriate mileage fees and witness fees pursuant to Rule 45, Arkansas Rules of Civil Procedure. The witness must be served at least two days prior to the hearing. For good cause, the Board may authorize 3. Any motion to quash or limit the subpoena shall be filed with the Board and shall {state the grounds relied upon.}

V. Recording the Proceedings: The responsibility to record the testimony heard at a hearing is borne by the Board. Upon the filing of a petition for judicial review, the Board will provide a verbatim transcript of testimony taken before the Board.

W. Factors To Be Considered In Imposing Sanctions: In addition to any other considerations permitted by the Home Inspector Registration Act, the Board in imposing any sanction may consider:

1. The nature and degree of the misconduct for which the licensee is being sanctioned.
2. The seriousness and circumstances surrounding this misconduct.
3. The loss or damage to clients.
4. The assurance that those who seek similar professional services in the future will be protected from the type of misconduct found.
5. The profit to the licensee.
6. The avoidance of repetition.
7. Whether the conduct was deliberate, intentional or negligent.
8. The deterrent effect on others.
9. The conduct of the individual during the course of the disciplinary proceeding.
10. The professional's prior disciplinary record, to include warnings.
11. Matters offered by the inspector in mitigation or extenuation except that a claim of disability or impairment resulting from the use of alcohol or drugs may not be considered unless the professional demonstrates that he is successfully pursuing in good faith a program of recovery.

X. Final Order:

1. The Board will serve on the respondent a written order that reflects the action taken by the Board. The order will include a recitation of facts found based on testimony and other evidence presented and reasonable inferences derived from the evidence pertinent to the issues of the case. It will also state conclusions of law and directives or other disposition entered against or in favor of the respondent.

2. The order will be served personally or by mail on the respondent. If counsel represents respondent, service of the order on respondent's counsel shall be deemed service on the respondent.

Z. Duty of Sanctioned Inspector:

1. In every case in which an inspector's registration is revoked, suspended, or surrendered, the professional shall, within thirty (30) days of the revocation, suspension or surrender:
 - a. Return his registration card to the Board's office;
 - b. Notify all of his clients in writing that his license has been revoked, suspended, or surrendered;
 - c. Notify all clients to make arrangements for other professional services, calling attention to any urgency in seeking the substitution of another licensed professional;
 - d. Deliver to all clients any papers or property to which they are entitled, or notify the client of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property;
 - e. Refund any part of the fees paid in advance that have not been earned;

- f. Keep and maintain a record of the steps taken to accomplish the foregoing;
- g. File with the Board a list of all other state, federal and administrative jurisdictions by which he is licensed or registered. Upon such filing, the Board will notify those entitled of the revocation, suspension or surrender; and
- h. The inspector shall, within thirty (30) days of revocation, suspension or surrender of his registration card, file an affidavit with the Board that he has fully complied with the provisions of the order and completely performed the foregoing or provide a full explanation of the reasons for his non-compliance. Such affidavit shall also set forth the address where communications may thereafter be directed to the respondent.

1203: - Reinstatement After Suspension.

- A. An order suspending a license may provide that a person desiring reinstatement shall file with the Board an affirmed or sworn petition requesting reinstatement.
- B. The petition for reinstatement shall set out the following:
 - 1. That the individual has fully and promptly complied with the requirements of paragraph 1202.Z above.
 - 2. That the individual has refrained from practicing in this profession during the period of suspension;
 - 3. That the individual's registration fee is current or has been tendered to the Board; and
 - 4. That the individual has fully complied with any requirements imposed as conditions for reinstatement.
- C. Any knowing misstatement of fact may constitute grounds for denial or revocation of reinstatement.
- D. Failure to comply with the provisions of paragraph 1202.Z of this Rule shall preclude consideration for reinstatement.
- E. No individual will be reinstated unless the Board approves reinstatement by affirmative vote of a majority of all board members.

1204: Reinstatement for Revoked or Surrendered Registration:

- A. No individual who has had his registration revoked or who has surrendered his registration shall be reinstated except on petition made to the Board. Petitions for reinstatement of revoked registrations shall be submitted in strict compliance with any instructions included in the revocation order.
- B. The applicant shall bear the burden of proof that he is rehabilitated following the revocation or surrender of his registration, he can engage in the conduct authorized by the registration without undue risk to the public health, safety and welfare, and he is otherwise qualified for the license pursuant to A.C.A. §17-52-301 et seq.
- C. The Board may impose any appropriate conditions or limitations on a reinstatement to protect the public health, safety and welfare.
- D. The Board may require that the person seeking reinstatement sit for and successfully complete the competency examination.

1205 - Emergency Action:

- A. Emergency Notice of Hearing: If the Board finds that the public health, safety, or welfare imperatively requires emergency action and incorporates that finding in its order, the Board can summarily suspend, limit, or restrict a registration. The notice requirement in paragraph *** does not apply and shall not be construed to prevent a hearing at the earliest time practicable.
- B. Emergency Order: An emergency adjudicative order shall contain findings that the public health, safety and welfare imperatively require emergency action and the action taken by the Board. The

written order shall include notification of the date on which Board proceedings are scheduled for completion.

1. Written Notice: The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:

- a. Personal delivery;
- b. Certified mail, return receipt requested to the last address on file with the Board;
- c. First class mail to the last address on file with the Board;
- d. Fax (electronic facsimile transmission) may be used as the sole method of delivery if the person required to comply with the order has filed a written request that Board orders be sent by fax and has provided a fax number for that purpose.

1206 - Public Notice of Disciplinary Action: In those instances where the Board suspends, revokes, or temporarily withdraws a registration, notice of such action shall be published on the Board's Internet site. Notice may also be sent to appropriate publications which will communicate those actions to potential participants in a residential real estate transaction.

1300 - Prescribed Forms: These forms as prescribed by the Board shall be used for their intended purposes. Xerographic copies may be made and used or they may be downloaded and printed from the Internet.

Note: Forms will be developed as needed and included for reference at that time.

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1400 Record of Changes: As each change is adopted, this Section 1400 of the rules shall be removed and discarded. The new Section 1400 will be inserted in its place. All other pages of the change will be inserted into their appropriate locations and the pages which they replace shall also be discarded.

Change Number	Date Adopted By Board	Effective Date	Remarks And Summary Of Change:
-	October 21, 2003	November 10, 2003	1. Findings required by law as prerequisite to adoption: None. 2. Authority for adoption of this rule: §17-52-306 A.C.A. 3. Summary of Changes: Adopted initial set of Rules for the Home Inspection Registration Board.
1	xxx	xxx	1. Findings required by law as prerequisite to adoption: ***** 2. Authority for adoption of this rule: ***** 3. Summary of Changes: 4. Pages Replaced:

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