

198.00.12-001



# Arkansas Home Inspector Registration Board

P.O. Box 251911  
Little Rock, AR 72225  
Tel: (501) 683-3710 Fax: (501) 244 2333

TO: Arkansas Bureau of Legislative Research  
Office of the Secretary of State  
Arkansas State Library

FROM: Randy Martinsen, Administrator *RJM*

DATE: February 1, 2013

RE: Amendments to Rules & Procedures  
of the Arkansas Home Inspector Registration Board

In compliance with Arkansas Code § 25-15-204, I am attaching all information relating to two "final" amendments to the Rules & Procedures of the Board as adopted by the Board.. The last page of the attached document shows the specifically amended language. This packet contains all information submitted to the Bureau of Legislative Research as well as the Arkansas Economic Development Commission in fulfillment of the required procedures.

A public hearing following 30-days notice as prescribed by law was held on October 9, 2012 by the Board. There were no comments or objections by any party

The amendments were deemed to be "reviewed" at the November 5, 2012 meeting of the Rules & Regulations Subcommittee of the Legislative Council.

With the submittal of this information to your office, the Board is commencing the 30-day waiting period prior to effectiveness of these rules changes as specified in §25-15-304(e)(1)(A).

**FILED**  
AR. REGISTER DIV.  
13 FEB - 1 AM 11:03  
RANDY MARTINSEN  
SECRETARY OF STATE  
STATE OF ARKANSAS  
BY \_\_\_\_\_



## Arkansas Home Inspector Registration Board

P.O. Box 251911  
Little Rock, AR 72225  
Tel: (501) 683-3710 Fax: (501) 244 2333

September 12, 2012

Donna K. Davis  
Administrative Rules Analyst  
Legal Services Division  
Bureau of Legislative Research  
1 Capitol Mall, 5th Floor  
Little Rock, AR 72201

Dear Ms. Davis:

Attached you will hopefully find all materials required by the Legislative Council in order to consider the amendment of two Rules of the Arkansas Home Inspector Registration Board.

The attached should include:

Legislative Council Questionnaire  
Legislative Council Financial Impact Statement  
Financial Impact Questionnaire submitted to Economic Development Commission  
Response from Economic Development Commission  
Summary of Proposed Rule Changes  
Proposed Rules  
Mark-up of Proposed Rule Changes

Following the public hearing and comment period, we shall submit any comments received and any accompanying revisions to these proposed amendments in accordance with your procedures.

Please let me know if you require further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Martinsen".

Randy Martinsen, Administrator

FILED  
ARK. REGISTER DIV.  
13 FEB - 1 AM 11:03  
MARTINSEN  
SECRETARY OF STATE  
STATE OF ARKANSAS  
BY \_\_\_\_\_

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS  
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Arkansas Home Inspector Registration Board  
 DIVISION \_\_\_\_\_  
 DIVISION DIRECTOR Greg Quinney, Chairman  
 CONTACT PERSON Randy Martinsen, Administrator  
 ADDRESS P.O. Box 251911, Little Rock, AR 72225  
 PHONE NO. (501) 683-3710 FAX NO. (501) 244-2333 E-MAIL randym@miiinc.net  
 NAME OF PRESENTER AT COMMITTEE MEETING Randy Martinsen  
 PRESENTER E-MAIL randym@miiinc.net

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis  
 Administrative Rules Review Section  
 Arkansas Legislative Council  
 Bureau of Legislative Research  
 Room 315, State Capitol  
 Little Rock, AR 72201

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1. What is the short title of this rule? 103 R. "Standards of Practice and Code of Ethics"  
603 C. Delinquent renewal fee

2. What is the subject of the proposed rule? Update to reference current Standards of Practice and implementation of graduated penalty for late license renewal

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No   
 If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes  No   
 If yes, what is the effective date of the emergency rule? \_\_\_\_\_

When does the emergency rule expire? \_\_\_\_\_

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes  No

5. Is this a new rule? Yes  No

If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes  No   
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes  No   
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule?  
If codified, please give Arkansas Code citation.

17-52-306 (9) & 17-52-316 (d)(1)

7. What is the purpose of this proposed rule? Why is it necessary?  
Updates Rules to reference current national Standards of Practice and implements a graduated penalty for late license renewal

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

www.ahib.org

9. Will a public hearing be held on this proposed rule? Yes  No

If yes, please complete the following:

Date: 10/9/2012

Time: 9:30 am

Place: 323 Center Street, Suite 200, Little Rock, AR 72201

10. When does the public comment period expire for permanent promulgation? (Must provide a date.) 10/9/2012

11. What is the proposed effective date of this proposed rule? (Must provide a date.) 1/1/2013

12. Do you expect this rule to be controversial? Yes  No

If yes, please explain. \_\_\_\_\_

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

None

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Home Inspector Registration Board  
**DIVISION** \_\_\_\_\_  
**PERSON COMPLETING THIS STATEMENT** Randy Martinsen  
**TELEPHONE NO.** (501) 683-3710 **FAX NO.** (501) 244-2333 **EMAIL:** randym@mmiinc.net

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** \_\_\_\_\_

1. Does this proposed, amended, or repealed rule have a financial impact? Yes  No
2. Does this proposed, amended, or repealed rule affect small businesses? Yes  No   
If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
Total \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

\$ 250.00

**Next Fiscal Year**

\$ 250.00

These represent the total maximum amounts of penalties per fiscal year for a licensee who failed to submit license renewal paperwork within 5 months following the deadline for submission.

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

**Current Fiscal Year**

\$ 0.00

**Next Fiscal Year**

\$ 0.00

**ECONOMIC IMPACT STATEMENT  
OF PROPOSED RULES OR REGULATIONS  
EO 05-04: Regulatory Flexibility**

Department Arkansas Home Inspector Registration Board

Contact Person Randy Martinsen Date 8/17/2012

Contact Phone (501) 683-3710 Contact Email randym@miiinc.net

Title or Subject : Amendment of Rules & Procedures of the Ark. Home Inspector Registration Board

**Benefits of the Proposed Rule or Regulation**

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, please explain the nature of such complaints.

No complaints motivated the proposed changes. The two changes we are requesting will be referred to throughout this document as **A & B**.

**A)** We are requesting that the current Rules be updated to reference the most recent version of the Standards of Practice and Code of Ethics of the American Society of Home Inspectors which have been used by the profession since 2006 rather than the 2001 Standards currently referenced.

**B)** We are also requesting that our Rules be changed to formally implement a graduated scale of late registration fees rather than collecting the entire \$250 maximum penalty as currently stated in the Rules. The Board feels that the imposition of a \$250 penalty for late submission of registration renewal materials is excessive.

2. What are the top three benefits of the proposed rule or regulation?

**A)** Uniformity with nationwide industry standards of practice, and continuation of licensure of home inspectors in Arkansas.

**B)** The financial burden of an excessive penalty would be eased, except in those cases where a larger penalty is merited.

3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?

**A)** Confusion would develop among licensees who already follow the current (2006) Standards of Practice. Current home inspectors or prospective home

inspectors would not be able to acquire training or testing in the older Standards of Practice and Code of Ethics. Licensure of home inspectors would cease because education providers and testing services no longer cover the older Standards of Practice and Code of Ethics.

B) Taking no action would impose an undue hardship on home inspectors who only commit a minor infraction of the Rules.

4. **Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting those alternatives.**

A) The market based alternative is what we are asking to implement, i.e. the industry standards.

B) Not Applicable

#### **Impact of Proposed Rule or Regulation**

5. **Estimate the cost to state government of *collecting information, completing paperwork, filing, recordkeeping, auditing and inspecting* associated with this new rule or regulation.**

A) None

B) None

6. **What types of small businesses will be required to comply with the proposed rule or regulation? Please estimate the number of small businesses affected.**

A & B – Home inspection businesses. Approximately 230 to 250.

7. **Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.**

A & B – No.

8. **Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.**

A & B – None

9. **State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary.**

A & B – No.

10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.

A & B – There would be no change required of the small business owners.

11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government?

A) The Standards of Practice and the Code of Ethics which we wish to implement are already the most widely used by other States. The federal government does not license home inspectors.

B) Levels of penalties in other states for the late submission of license renewal materials are unknown. The downward adjustment of the penalty in question in Arkansas has achieved the desired result of imposing a reasonable penalty without increasing the number of offenders. The previous penalty was simply too high for the gravity of the offense.

12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation.

A) The adoption of the most current Standards of Practice and Code of Ethics in the agency Rules was thought to have already occurred by the industry in Arkansas.

B) The graduated scale of penalties is preferred by the industry in Arkansas, with no complaints that it is too excessive or lenient.

August 24, 2012

Mr. Randy Martinsen  
Administrator  
Arkansas Home Inspector Registration Board  
P. O. Box 251911  
Little Rock, AR 72225

Re: Proposed "Amendment of Rules & Procedures of the Arkansas Home Inspector Registration Board"

Dear Mr. Martinsen:

Per Act 143 of 2007, I have reviewed the proposed "Amendment of Rules & Procedures of the Arkansas Home Inspector Registration Board" and the financial impact Statement. Arkansas Code § 25-15 2(d) (1) of Act 143 requires me to determine if you have taken sufficient measures to balance the objectives of the proposed rules with the interest of the impacted small businesses.

It is my determination that in drafting the proposed "Amendment of Rules & Procedures of the Arkansas Home Inspector Registration Board" you have taken sufficient steps to protect the interests of the impacted small businesses.

Please feel free to contact me with any questions regarding this matter. I can be reached at (501) 682-2559 or [pbrown@arkansasedc.com](mailto:pbrown@arkansasedc.com).

Sincerely,



Patricia Nunn Brown  
Division Director  
Small and Minority Business

PB/cm

## **SUMMARY**

### **Proposed Amendments to the Rules and Procedures of the Arkansas Home Inspector Registration Board**

Proposed changes to Section 103R would reference the current (2006) version of the American Society of Home Inspectors (ASHI) Standards of Practice, and the current (2004) version of the ASHI Code of Ethics. The current version of the Rules and Procedures reference the versions of the Standards of Practice and the Code of Ethics which were in effect on January 1, 2000. The more current version of each has been adopted by the Board and are followed as a national standard. Training and testing are no longer available for the previous versions.

Proposed changes to Section 603C would replace a lump sum penalty of \$250 on home inspectors who do not submit license renewal paperwork on time with a graduated penalty of \$50 per month of delinquency according to the schedule shown in the proposed language.

## Proposed Rules

### Rules and Procedures of the Arkansas Home Inspector Registration Board

**"103 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 of the American Society of Home Inspectors, Inc. of Des Plaines, Illinois which were effective October 15, 2006 are the standards of practice to be followed by persons conducting home inspections in Arkansas. The Code of Ethics of the American Society of Home Inspectors, Inc. of Des Plaines, Illinois which were effective June 13, 2004 are the code of ethics 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."

**"603 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, as noted below, is non-refundable and must be paid in addition to all other renewal fees and is due upon submission of all renewal documents.

Required renewal documents received from:

December 2 to December 31	\$50
January 1 to January 31	\$100
February 1 to last day of February	\$150
March 1 to March 31	\$200
April 1 and thereafter	\$250"

BY \_\_\_\_\_

MARVIN J. JARVIS  
SECRETARY OF STATE  
STATE OF ARKANSAS

13 FEB - 1 AM 11:03

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REGISTER DIV.

## Mark-up

### Proposed Amendments to the Rules and Procedures of the Arkansas Home Inspector Registration Board

**"103 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~~ October 15, 2006 are the standards of practice and code to be followed by persons conducting home inspections in Arkansas. The Code of Ethics of the American Society of Home Inspectors, Inc. of Des Plaines, Illinois which were effective June 13, 2004 are the code of ethics 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."

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Required renewal documents received from:

<u>December 2 to December 31</u>	<u>\$50</u>
<u>January 1 to January 31</u>	<u>\$100</u>
<u>February 1 to last day of February</u>	<u>\$150</u>
<u>March 1 to March 31</u>	<u>\$200</u>
<u>April 1 and thereafter</u>	<u>\$250"</u>

BY \_\_\_\_\_

MARVIN MARTIN  
SECRETARY OF STATE  
STATE OF ARKANSAS

13 FEB - 1 AM 11:04

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**FILED**