

NOTICE OF INTENT

Office of the Governor Board of Home Inspectors

General Rules; Standards of Practice
(LAC 46:XL.Chapters 1 and 3)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 17:1475(4), that the Board of Home Inspectors proposes to amend and supplement its administrative rules. Section 121A1 allows additional live and/or live streaming continuing education which provides more access to education for those not residing in major cities across the State. The proposed revision to Section 121.B(8)(b) removes streaming video courses from continuing education courses and Section 121.B(10) requires either in-person or interactive live streaming video which ensures the student is actively participating in the class. The proposed revisions to Section 121.F(5) allows the continuing education provider five (5) days to provide the student with a certificate of completion. Section 319.D adds carbon monoxide alarms to the list of items which the home inspector must inspect. This provides additional safety to the general public. Section 501.D(7) provides the public with additional safety measures against unscrupulous home inspectors who may call out deficiencies in a home inspection merely to obtain the construction work. This rule change does not allow the home inspector to perform any work on the home for one year following the home inspection. Finally, La. R.S. 37:1478D was amended in the last legislative session and the proposed amendment of Section 501.D(7) tracks the language of the newly amended statute.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XL. Home Inspectors

Chapter 1. General Rules

§113. Qualifications for Licensure and Application

A. Applicants must have:

1.- 7.

8. applied to the Louisiana State Police for a criminal background check, pay all costs associated therewith and submit the results to the board.

Background checks shall expire 365 days after the date of issuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477 and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 43:1910 (October 2017).

§115. Licensing Applications; Forms; Terms; Renewals; Inactive Status

A. ...

B. Upon renewal of a license, the licensee shall submit a copy of a completed inspection report form from the previous licensing period. ~~All~~ Client information, including name, ~~and address phone number, email and inspection fee amount,~~ shall ~~may~~ be deleted from the form. Reports must comply with §123 of this Chapter.

C. - E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477 and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1687 (August 2004), LR 36:2858 (December 2010), LR 37:2405 (August 2011), LR 41:919 (May 2015), LR 43:1910 (October 2017).

§121. Continuing Education; Instructors

A. ...

B. Continuing Education Courses

1. - 7.

8. The licensee may receive up to a maximum of 10 hours of continuing education credit per licensing period for any combination of the following types of classes as set forth in Paragraphs ~~5-8~~ of this Subsection:

a. - c.

d. courses designated for pre-licensing education as set forth in §119.C.1 of this Chapter.

~~9. Continuing education credit cannot be received by attending classes designated for pre-licensing education instruction as set forth in §119.C.1.~~

~~10. 9.~~ Continuing education courses must be taught by continuing education providers who meet the criteria set forth in §121.F.1. Qualified guest lecturers may teach courses on behalf of continuing education provider instructors. The continuing education provider shall be responsible for confirming the qualifications of the guest lecturer.

~~11. 10.~~ Any remaining balance of continuing education hours must be obtained by participation in live presentation CE classes taught by a board-certified education provider.

~~42-~~ 11. All licensees must attend a board-approved report writing and standards of practice seminar at least once every three years.

C. – E.

F.1. - 3.

4. a. A certified continuing education provider shall be authorized to offer any continuing education courses that teach items specifically covered within the standards of practice, without applying for prior approval of the chief operating officer and/or board. The continuing education provider shall be responsible for verifying that the course work falls within the scope of the standards of practice or building construction field.

b. a certified continuing education provider wishing to offer the Report Writing Seminar must be approved by the board prior. The provider must notify the board of their intent and provide the board with an outline of their classroom presentation. The presentation must cover all the items included in the board-approved Report Writing Seminar outline.

c. all certified continuing education providers approved by the board to offer the Report Writing Seminar must attend a board-approved Report Writing Instructor Train the Trainer seminar at least once every three years.

5. – 6.

7. The names and contact information for all approved continuing education providers will be posted on the board's official website. ~~At the request of a provider, the board will also post announcements of continuing education classes on its website upon written notice by the provider 30 days prior to the class.~~

8. All continuing education classes to be attended by three or more students must be reported to the LSBHI at least ten days prior to the date the class will be held.

9. All certified continuing education providers shall offer a minimum of eight in-person hours of home inspection industry offerings each year in order to retain board approval to provide continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1477 and R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 36:2860 (December 2010), LR 37:2405 (August 2011), LR 38:2531 (October 2012), LR 40:1003 (May 2014), LR 43:314 (February 2017), LR 43:1911 (October 2017).

§123. Home Inspection Reports; Consumer Protection

A. All home inspection reports shall comply with all requirements as set forth in the standards of

practice, these rules and the home inspector licensing law. Home inspection reports shall specify the municipal address of the home inspected, the client(s) for whom the home was inspected and the date of the inspection. Home inspection reports shall not be resold for any reason.

B. – D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477 and R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 41:920 (May 2015).

§139. Prohibited Acts: Penalties and Costs

A. – F.

G. The board may suspend or revoke any certification or license, or censure, fine, or impose probationary or other restrictions on any education provider who violates any provisions of these rules or the Home Inspector Licensing law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1486-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2744 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1688 (August 2004), LR 41:921 (May 2015), LR 43:314 (February 2017), LR 43:1912 (October 2017).

Chapter 3

Standards of Practice

§305. Purpose and Scope

A. ...

B. Home inspectors shall:

1. provide the client with a written pre-inspection contract, whenever possible, which shall:

a. – b.

c. state that the inspection is limited to only those systems or components, as set forth in these Standards of Practice, as agreed upon by the client and the inspector or expressly excluded in writing; ~~and~~

d. contain copies of the Standards of Practice and Code of Ethics; and

e. ...

2. – 3.

C. 1-4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR26:2746 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1690 (August 2004), LR 38:2532 (October 2012), LR 43:1912 (October 2017).

Fiscal and Economic Impact Statement for Administrative Rules

Rule Title: General Rules; Standards of Practice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will require the Louisiana State Board of Home Inspectors (LSBHI) to publish the proposed and final rules in the state register, resulting in attorney's fees of \$1,000 in FY 22. There will be no additional expenditures or cost savings for LSBHI or other state or local governmental units. The LSBHI is funded through license fees and report fees.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will require continuing education providers to offer at least 8 in classroom hours per year of continuing education. The amount of such increase in economic benefit and cost will vary by provider and is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no effect on competition and employment.

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, a Family Impact Statement is hereby submitted on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed rule changes will have no effect on the stability of the family.
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed rule changes will have no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The Effect on the Functioning of the Family. The proposed rule changes will have no effect on the functioning of the family.
4. The Effect on Family Earnings and Family Budget. The proposed rule changes will have no effect on family earnings or family budget.
5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule changes will have no effect on the behavior and personal responsibility of children.
6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed rule changes will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed rule changes.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, a regulatory flexibility analysis is hereby submitted on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed rule changes will have no effect on compliance or reporting requirements for small businesses.
2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed rule changes will have no effect on schedules or deadlines for compliance or reporting requirements for small businesses.
3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed rule changes will have no effect on compliance or reporting requirements for small businesses.
4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed rule changes do not impact design or operational standards
5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses in the proposed rule changes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, a Poverty Impact Statement is hereby submitted on the Rule proposed for adoption, repeal or amendment. The following statements will be published in the Louisiana Register with the proposed agency Rule.

1. The effect on household income, assets, and financial security. The proposed rule change will have no effect on household income, assets, and financial security
2. The effect on early childhood development and preschool through postsecondary education development. The proposed rule change will have no effect on effect on early childhood development and preschool through postsecondary education development.
3. The effect on employment and workforce development. The proposed rule change will have no effect on employment and workforce development.
4. The effect on taxes and tax credits. The proposed rule change will have no effect on taxes and tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. The proposed rule change will have no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, a Provider Impact Statement is hereby submitted on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed rule changes will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.
2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed rule changes will have no effect on the cost to the provider to provide the same level of service.
3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed rule changes will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Morgan Spinosa, Chief Operating Officer, at the office of the Louisiana State Board of Home Inspectors, 5211 Essen Lane, Suite 9, Baton Rouge, LA 70809. She is responsible for responding to inquiries regarding the proposed Rule amendment. 504-248-1334.

Public Hearing

A public hearing to solicit comments and testimony on the proposed rule changes is scheduled for March 1, 2024, at 9:00am at the office of the Louisiana State Board of Home Inspectors, 5211 Essen Lane, Suite 9, Baton Rouge, LA 70809. During the hearing, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Morgan Spinosa
Chief Operating Officer

SUMMARY (Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes require the Louisiana State Board of Home Inspectors (LSBHI) to publish the proposed and final rules in the state register, resulting in attorney's fees of \$1,000 in FY 22. There will be no additional expenditures or cost savings for LSBHI or other state or local governmental units. The LSBHI is funded through license fees and report fees.

The proposed rule changes the education and training rules by clarifying the types of continuing education available to licensees. It also provides the number of hours awarded for each type towards their minimum requirements. The proposed rule changes the procedures for special investigative entities to help clarify the role of the Special Investigative Entity and provide structure and consistency with investigations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as no increase in fees will result from the proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no increase in costs as a result of the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION

AND EMPLOYMENT (Summary)

The proposed rule changes to Section 501.D(7) actually levels the playing field regarding competition and employment. It prevents licensed home inspectors with contractor licenses from taking advantage of homeowners by preventing them from performing work on a home for which they inspected and called out deficiencies, for one year from the date of the inspection.