

# VIRGINIA BOARD FOR ASBESTOS, LEAD, MOLD, AND HOME INSPECTORS



## CERTIFIED HOME INSPECTOR REGULATIONS

Last Updated April 1, 2011

**STATUTES**  
Title 54.1, Chapter 5

*Virginia*

**DPOR**  
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

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**NOTICE**  
**SUMMARY OF SIGNIFICANT CHANGES**

The regulations in this booklet became effective on April 1, 2011, and replace all previous versions of the regulations for Certified Home Inspectors. As a regulant of the Board, you are responsible for following all regulations and therefore you should read and become familiar with all regulations printed in the booklet. These regulations should be thoroughly reviewed. Following is a brief summary of the change to the regulations to assist you in your review.

As of April 1, 2011, amendments were made to the definitions, the qualifications for certification, the certified home inspection contract provisions, the certified home inspection report provisions, the conflict of interest provisions, and the unworthiness and incompetence provisions. Continuing professional education (CPE) became a renewal requirement. Several sections were amended to conform to the Department of Professional and Occupational Regulation's Model Regulations and had no substantive impact.

## STATEMENT OF PURPOSE

This booklet contains the information you will need to obtain your Home Inspector Certification. The law that governs your profession is found in the *Code of Virginia*, 1950, as amended, in Title 54.1, Chapter 5. A copy of Chapter 5 of Title 54.1 of the Code of Virginia as amended appears under the heading *Code of Virginia*. The 2001 Session of the Virginia General Assembly established a voluntary certification program for home inspectors. That law permits the Department of Professional and Occupational Regulation to issue regulations that tell you more about what is expected of you in your profession. This booklet contains a copy of the law and regulations that you will need to know and obey to obtain and keep your Home Inspector Certification.

**BE SURE YOU READ AND UNDERSTAND THE STANDARDS OF PRACTICE AND CONDUCT. YOUR FAILURE TO OBEY THESE STANDARDS COULD RESULT IN A MONETARY PENALTY OR THE LOSS OF YOUR HOME INSPECTOR CERTIFICATION.**

**These regulations do not prohibit individuals from performing home inspections for hire provided they do not hold themselves out as or use the title of “certified home inspector,” or conduct or offer to provide a “certified home inspection.”**

It is the goal of the Department of Professional and Occupational Regulation to provide you with the information you need to comply with the law and regulations. If you have a question and cannot find the answer to it in this booklet, please write to:

Board for Asbestos, Lead, Mold, and Home Inspectors  
Department of Professional and Occupational Regulation  
9960 Mayland Drive, Suite 400  
Richmond, Virginia 23233

or call the Agency at (804) 367-8500.

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## **PART I.**

### **GENERAL**

#### **18VAC15-40-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless a different meaning is provided or is plainly required by the context:

"Adjacent" means structures, grading, drainage, or vegetation within three feet of the residential building that may affect the residential building.

"Board" means the Virginia Board for Asbestos, Lead, Mold, and Home Inspectors.

"Certificate holder" means any person holding a valid certificate as a certified home inspector issued by the board.

"Certification" means an authorization issued to an individual by the board to perform certified home inspections by meeting the entry requirements established in these regulations.

"Client" means a person who engages or seeks to engage the services of a certified home inspector for the purpose of obtaining an inspection of and a written report upon the condition of a residential building.

"Compensation" means the receipt of monetary payment or other valuable consideration for services rendered.

"Component" means a part of a system.

"Contact hour" means 50 minutes of participation in a structured training activity.

"Department" means the Department of Professional and Occupational Regulation.

"Financial interest" means financial benefit accruing to an individual or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership exceeds 3.0% of the total equity of the business; (ii) annual gross income that exceeds or may be reasonably anticipated to exceed \$1,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination of it, paid or provided by a business that exceeds or may be reasonably expected to exceed \$1,000 annually; or (iv) ownership of real or personal property if the interest exceeds \$1,000 in value and excluding ownership in business, income, salary, other compensation, fringe benefits, or benefits from the use of property.

"Fireplace" means an interior fire-resistant masonry permanent or prefabricated fixture that can be used to burn fuel and is either vented or unvented.

"Foundation" means the base upon which the structure or a wall rests, usually masonry, concrete, or stone, and generally partially underground.

"Inspect" or "inspection" means to visually examine readily accessible systems and components of a building established in this chapter.

"Outbuilding" means any building on the property that is more than three feet from the residential building that might burn or collapse and affect the residential building.

"Readily accessible" means available for visual inspection without requiring moving of personal property, dismantling, destructive measures, or any action that will likely involve risk to persons or property.

"Reinstatement" means having a certificate restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a certificate for another period of time.

"Residential building" means, for the purposes of home inspection, a structure consisting of one to four dwelling units used or occupied, or intended to be used or occupied, for residential purposes.

"Solid fuel burning appliances" means a hearth and fire chamber or similarly prepared place in which a fire may be built and that is built in conjunction with a chimney, or a listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction.

"System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.

Terms not defined in this chapter have the same definitions as those set forth in § 54.1-500 of the Code of Virginia.

***Historical Notes***

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011.*

## PART II.

### ENTRY REQUIREMENTS

#### **18VAC15-40-20. Necessity for certification.**

Any person who holds himself out as or uses the title of "certified home inspector" or conducts or offers to provide a "certified home inspection" shall have a current and valid certificate issued by the board. Nothing in this chapter shall be construed to preclude noncertified individuals from performing home inspections for hire provided their conduct is in compliance with § 54.1-517.1 of the Code of Virginia.

#### *Historical Notes*

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003.*

#### **18VAC15-40-30. Qualifications for certification.**

Every applicant for an individual home inspector certificate shall have the following qualifications:

1. The applicant shall be at least 18 years old.
2. The applicant shall meet the following educational and experience requirements:
  - a. High school diploma or equivalent; and
  - b. One of the following:
    - (1) Completed 35 contact hours of classroom instruction and have completed a minimum of 100 home inspections;
    - (2) Completed 35 contact hours of classroom instruction and have completed a minimum of 50 certified home inspections in compliance with this chapter under the direct supervision of a certified home inspector, who shall certify the applicant's completion of each inspection and shall be responsible for each inspection;
    - (3) Completed 70 contact hours of classroom instruction and have completed a minimum of 50 home inspections. Or

- (4) Completed 70 contact hours of classroom instruction and have completed a minimum of 25 certified home inspections in compliance with this chapter under the direct supervision of a certified home inspector, who shall certify the applicant's completion of each inspection and shall be responsible for each inspection.

Instruction courses shall cover the content areas of the board-approved examinations.

An applicant who cannot fulfill the classroom instruction requirement as outlined in this subsection may provide documentation of a minimum of 10 years of experience as a home inspector with a minimum of 250 home inspections completed in substantial compliance with this chapter to satisfy this requirement. The documentation is subject to board review and approval.

3. The applicant shall have passed a written competency examination approved by the board.
4. The board may accept proof of membership in good standing, in a national or state professional home inspectors association approved by the board, as satisfaction of subdivisions 1, 2, and 3 of this section, provided that the requirements for the applicant's class of membership in such association are equal to or exceed the requirements established by the board for all applicants.
5. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a home inspector in such a manner as to safeguard the interests of the public.
6. The applicant shall disclose whether a certificate or license as a home inspector from any jurisdiction where certified or licensed has ever been suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for certification in Virginia. The board may deny certification to any applicant so disciplined after examining the totality of the circumstances.
7. The applicant shall disclose any conviction or finding of guilt, regardless of adjudication, in any jurisdiction of the United States of any misdemeanor involving violence, repeat offenses, multiple offenses, or crimes that endangered public health or safety, or of any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Subject to the provisions of § 54.1-204 of the Code of Virginia, the board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of residential

home inspections. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. A certified copy of a final order, decree, or case decision by a court with the lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or guilt.

8. Procedures and appropriate conduct established by either the board or any testing service administering an examination approved by the board or both shall be followed by the applicant. Such procedures shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board or the testing service with regard to conduct at the examination shall be grounds for denial of the application.
9. Applicants shall show evidence of having obtained general liability insurance with minimum limits of \$250,000.

*Historical Notes*

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011.*

**18VAC15-40-40. Waiver of the requirements of this chapter.**

Except as required by law, the board may, in its reasonable discretion, waive any of the requirements of this chapter when in its judgment it finds that the waiver in no way lessens the protection provided by this chapter and Title 54.1 of the Code of Virginia to the public health, safety and welfare. The burden of proof that demonstrates continued public protection rests with the individual requesting the waiver. Documents referenced are in effect as they existed as of the date the act or action has occurred.

*Historical Notes*

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003.*

**18VAC15-40-45. Application denial.**

The board may refuse initial certification due to an applicant's failure to comply with entry requirements or for any of the reasons it may discipline a regulant.

*Historical Notes*

*Derived from Virginia Register Volume 27, Issue 11, eff. April 1, 2011.*

**18VAC15-40-48. General fee requirements.**

All fees are nonrefundable and shall not be prorated. The date on which the fee is received by the department or its agent will determine whether the fee is on time. Checks or money orders shall be made payable to the Treasurer of Virginia.

*Historical Notes*

*Derived from Virginia Register Volume 27, Issue 11, eff. April 1, 2011.*

**18VAC15-40-50. Application fees.**

The application fee for an initial home inspector certification shall be \$25.

*Historical Notes*

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011.*

**18VAC15-40-52. Renewal and reinstatement fees.**

Renewal and reinstatement fees are as follows:

Fee type	Fee amount	When due
Renewal	\$25	With renewal application
Late renewal	\$25 (renewal) + \$25 (late fee) = \$50 total fee	With renewal application
Reinstatement	\$75 (reinstatement) + \$25 (renewal) = \$100 total fee	With reinstatement application

***Historical Notes***

*Derived from Virginia Register Volume 27, Issue 11, eff. April 1, 2011.*

### **PART III.**

#### **RENEWAL, REINSTATEMENT AND CERTIFICATE**

##### **18VAC15-40-60. Renewal required.**

Certificates issued under this chapter shall expire two years from the last day of the month in which they were issued, as indicated on the certificate.

##### *Historical Notes*

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003.*

##### **18VAC15-40-70. Qualification for renewal (Repealed).**

##### *Historical Notes*

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011.*

##### **18VAC15-40-72. Continuing professional education (CPE) required.**

- A. Each certificate holder shall have completed 16 contact hours of continuing professional education (CPE) during each certificate renewal cycle, beginning with the certificate renewal cycle that ends April 30, 2013.
- B. The subject matter addressed during CPE contact hours shall be limited to the content areas covered by the board's examination.
- C. The following shall be maintained by the certificate holder to document completion of the hours of CPE specified in subsection A of this section:
  - 1. Evidence of completion that shall contain the name, address, and telephone number of the training sponsor;
  - 2. The dates the applicant participated in the training;
  - 3. Descriptive material of the subject matter presented documenting that it covers the content areas covered by the board's examination; and
  - 4. A statement from the sponsor verifying the number of CPE contact hours completed.
- D. Each certificate holder shall maintain evidence of the satisfactory completion of CPE for at least three years following the end of the certificate renewal cycle for which the CPE was taken. Such documentation shall be in the form required by subsection C of this section and shall be provided to the board or its duly authorized agents upon request.

- E. The certificate holder shall not receive CPE credit for the same training course more than once during a single certificate renewal cycle.
- F. Distance learning courses that comply with subsection B of this section and provide the documentation required by subsection C of this section shall comply with the CPE requirement.
- G. The certificate holder may request additional time to meet the CPE requirement; however, CPE hours earned during a certificate renewal cycle to satisfy the CPE requirement of the preceding certificate renewal cycle shall be valid only for that preceding certificate renewal cycle.

***Historical Notes***

*Derived from Virginia Register Volume 27, Issue 11, eff. April 1, 2011.*

**18VAC15-40-80. Procedures for renewal.**

- A. The board shall mail a renewal application form to the certificate holder at the last known home address of record. These notices shall outline the procedures for renewal. Failure of the board to mail or of the certificate holder to receive these notices does not relieve the certificate holder of the obligation to renew.
- B. Prior to the expiration date shown on the certificate, regulants desiring to renew their certificate shall return the renewal application form to the board together with the appropriate fee specified in 18VAC15-40-52. If the regulant fails to receive the renewal notice, a copy of the certificate may be submitted with the required fee as an application for renewal. The date on which the fee is received by the department or its agent will determine whether the fee is on time.
- C. By causing a renewal application to be sent to the board or its authorized agent, the regulant is affirming that the insurance required by 18VAC15-40-30 continues to be in effect, that the CPE requirements of 18VAC15-40-72 have been met, and that he is in continued compliance with this chapter.

***Historical Notes***

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011.*

**18VAC15-40-85. Late renewal.**

If the renewal requirements of 18VAC15-40-80 are met more than 30 days but less than six months after the expiration date on the certificate, a late renewal fee shall be required

as established in 18VAC15-40-52. The date on which the renewal application and the required fees are actually received by the board or its agent shall determine whether the certificate holder must pay the renewal fee only or whether the late renewal fee must be paid.

*Historical Notes*

*Derived from Virginia Register Volume 27, Issue 11, eff. April 1, 2011.*

**18VAC15-40-90. Reinstatement.**

- A. If the requirements for renewal of a certificate, including receipt of the fee by the board, are not completed by the certificate holder within six months after the expiration date noted on the certificate, a reinstatement fee shall be required.
- B. All applicants for reinstatement shall meet all requirements set forth in 18VAC15-40-30, 18VAC15-40-72 and 18VAC15-40-80.
- C. A certificate may be reinstated for up to two years following the expiration date with payment of the reinstatement fee. After two years, the certificate shall not be reinstated under any circumstances and the applicant shall apply as a new applicant, requiring the applicant to retake the examination.

*Historical Notes*

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011.*

**18VAC15-40-100. Fees for renewal, reinstatement and examination. (Repealed.)**

*Historical Notes*

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011.*

**18VAC15-40-105. Status of certificate holder during the period prior to reinstatement.**

A certificate holder who reinstates his certificate shall be regarded as having been continuously certified without interruption and shall remain under the disciplinary authority of the board during this entire period and shall be held accountable for activities during this period.

*Historical Notes*

*Derived from Virginia Register Volume 27, Issue 11, eff. April 1, 2011.*

**18VAC15-40-110. Board discretion to deny renewal or reinstatement. (Repealed.)**

*Historical Notes*

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011.*

## **PART IV.**

### **MINIMUM STANDARDS FOR CONDUCTING CERTIFIED HOME INSPECTIONS**

#### **18VAC15-40-120. Certified home inspection contract.**

- A. For the protection of both the client and the certificate holder, both parties shall sign a legible written contract clearly specifying the terms, conditions, and limitations and exclusions of the work to be performed.
- B. At a minimum, the written contract shall include:
  - 1. Name, business name (if applicable), business address, and telephone number of the certified home inspector.
  - 2. Certificate number and expiration date of the certified home inspector.
  - 3. Name of the clients.
  - 4. Physical address of the residential properties to be inspected.
  - 5. Cost and method of payment of the certified home inspection.
  - 6. A listing of all areas and systems to be inspected, including those inspections that are either partial or limited in scope.
  - 7. To the extent that any of the following categories are not covered by the home inspection, they shall be noted as exclusions in the inspection contract:
    - a. The condition of systems or components that are not readily accessible.
    - b. The remaining life of any system or component.
    - c. The strength, adequacy, effectiveness, or efficiency of any system or component.
    - d. The causes of any condition or deficiency.
    - e. The methods, materials, or costs of corrections.
    - f. Future conditions including, but not limited to, failure of systems and components.
    - g. The suitability of the property for any specialized use.

- h. Compliance with regulatory requirements (codes, including the Virginia Uniform Statewide Building Code, regulations, laws, ordinances, etc.).
- i. The market value of the property or its marketability.
- j. The advisability of the purchase of the property.
- k. The presence of diseases harmful to humans or potentially hazardous plants or animals including, but not limited to, wood destroying organisms and mold.
- l. The presence of any environmental hazards including, but not limited to, toxins, carcinogens, noise, asbestos, lead-based paint, mold, radon, and contaminants in soil, water, and air.
- m. The effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances.
- n. The operating costs of systems or components.
- o. The acoustical properties of any system or component.
- p. The presence of components involved in manufacturer's recalls.
- q. The inspection of outbuildings.

To the extent any other items are not specifically included in the home inspection by agreement of the parties, they shall also be noted as exclusions in the inspection contract.

- 8. Expected delivery date to the client of the certified home inspection report.
  - 9. Dated signatures of both the certified home inspector and the client or the client's authorized representative.
- C. The certified home inspection contract shall make written disclosure that the certified home inspection report is based upon visual observation of existing conditions of the inspected property at the time of the inspection and is not intended to be, or to be construed as, a guarantee, warranty, or any form of insurance.
- D. If the certified home inspector recommends a person to the client for repairs or modifications to the inspected property, the certified home inspector shall disclose to the client all financial interests that the certified home inspector has with the recommended person. The disclosure shall be written within the certified home inspection contract.

*Historical Notes*

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011.*

**18VAC15-40-130. Certified home inspection report.**

- A. Certified home inspection reports shall contain:
  - 1. The name, business address and telephone number of the certificate holder as well as his certificate number and expiration date;
  - 2. The name, address, and telephone number of the client or the client's authorized representative, if available at the time of the inspection;
  - 3. The physical address of the residential properties inspected; and
  - 4. The date, time (to include both start and finish times of the inspection), and weather conditions at the time of the certified home inspection.
  
- B. In conducting a certified home inspection and reporting its findings, the certified home inspector, at a minimum, shall inspect the condition of and shall describe in writing the composition/characteristics of the following readily accessible components and readily observable defects, except as may be limited in the certified home inspection contract agreement:
  - 1. Structural system.
    - a. Foundation.
    - b. Framing.
    - c. Stairs.
    - d. Crawl space, the method of inspecting the crawl space shall be noted and explained in the inspection report. If the crawl space cannot be inspected, the certificate holder shall explain in the inspection report why this component was not inspected.
    - e. Crawl space ventilation and vapor barriers.
    - f. Slab floor, when present.
    - g. Floors, ceilings, and walls.
  - 2. Roof structure, attic, and insulation.

- a. Roof covering. The method of inspecting the roof covering shall be noted and explained in the inspection report. If the roof covering cannot be inspected, the certificate holder shall explain in the inspection report why this component was not inspected.
  - b. Roof ventilation.
  - c. Roof drainage system, to include gutters and downspouts.
  - d. Roof flashings, if readily visibly.
  - e. Skylights, chimneys, and roof penetrations, but not antennae or other roof attachments.
  - f. Roof framing and sheathing.
  - g. Attic, unless area is not readily accessible.
  - h. Attic insulation.
3. Exterior of dwelling.
- a. Wall covering, flashing, and trim.
  - b. Readily accessible doors and windows, but not the operation of associated security locks, devices, or systems.
  - c. Attached, or adjacent and on the same property, decks, balconies, stoops, steps, porches, carports, and any associated railings, but not associated screening, shutters, awnings, storm windows, garages, or storm doors.
  - d. Eaves, soffits, and fascias where readily accessible from ground level.
  - e. Walkways, grade steps, patios, and driveways, but not fences or privacy walls.
  - f. Vegetation, trees, grading, drainage, and any retaining walls in contact with or adjacent to the dwelling that may affect the dwelling.
  - g. Visible exterior portions of chimneys.
4. Interior of dwelling.
- a. Readily accessible interior walls, ceilings, and floors of dwelling and any attached or adjacent garage.

- b. Steps, stairways, railings, and balconies and associated railings.
  - c. Countertops and installed cabinets, including hardware.
  - d. Readily accessible doors and windows, but not the operation of associated security locks, devices, or systems.
  - e. Garage doors and permanently mounted and installed garage door operators. The automatic safety reverse function of garage door openers shall be tested, either by physical obstruction as specified by the manufacturer, or by breaking the beam of the electronic photo eye but only when the test can be safely performed and will not risk damage to the door, the opener, any nearby structure, or any stored items.
  - f. Fireplaces, including flues, venting systems, hearths, dampers, and fireboxes, but not mantles, fire screens and doors, seals and gaskets.
  - g. Solid fuel burning appliances if applicable.
5. Plumbing system.
- a. Interior water supply and distribution systems, including water supply lines and all fixtures and faucets, but not water conditioning systems or fire sprinkler systems.
  - b. Water drainage, waste, and vent systems, including all fixtures.
  - c. Drainage sumps, sump pumps, and related piping.
  - d. Water heating equipment, including energy source and related vent systems, flues, and chimneys, but not solar water heating systems.
  - e. Fuel storage and distribution systems for visible leaks.
6. Electrical system.
- a. Service drop.
  - b. Service entrance conductors, cables, and raceways.
  - c. Service equipment and main disconnects.
  - d. Service grounding.
  - e. Interior components of service panels and sub panels, including feeders.

- f. Conductors.
  - g. Overcurrent protection devices.
  - h. Readily accessible installed lighting fixtures, switches, and receptacles.
  - i. Ground fault circuit interrupters.
  - j. Presence or absence of smoke detectors.
  - k. Presence of solid conductor aluminum branch circuit wiring.
  - l. Arc fault interrupters shall be noted if installed but not tested if equipment is attached to them.
7. Heating system.
- a. Heating equipment, including operating controls, but not heat exchangers, gas logs, built-in gas burning appliances, grills, stoves, space heaters, solar heating devices, or heating system accessories such as humidifiers, air purifiers, motorized dampers, and heat reclaimers.
  - b. Energy source.
  - c. Heating distribution system.
  - d. Vent systems, flues, and chimneys, including dampers.
8. Air conditioning system.
- a. Central and installed wall air conditioning equipment.
  - b. Operating controls, access panels, and covers.
  - c. Energy source.
  - d. Cooling distribution system.
- C. Systems in the home that are turned off, winterized, or otherwise secured so that they do not respond to normal activation using standard operating controls need not be put into operating condition. The certified home inspector shall state, in writing, the reason these systems or components were not tested.

***Historical Notes***

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011.*

## **PART V.**

### **STANDARDS OF CONDUCT AND PRACTICE**

#### **18VAC15-40-140. Conflict of interest.**

- A. The certificate holder shall not:
1. Design or perform repairs or modifications to a residential building on which he has performed a certified home inspection as a result of the findings of the certified home inspection within 12 months after the date he performed the certified home inspection, except in cases where the home inspector purchased the residence after he performed the inspection;
  2. Perform a certified home inspection of a residential building upon which he has designed or performed repairs or modifications within the preceding 12 months without disclosing to the client in the certified home inspection contract the specifics of the repairs or modifications he designed or performed;
  3. Refer his client to another person to make repairs or modifications to a residential building on which he has performed a certified home inspection unless, in accordance with 18VAC15-40-120 D, he provides written documentation to his client that clearly discloses all financial interests that the certificate holder has or reasonably expects to have with the person who is recommended for the repairs or modifications;
  4. Represent the financial interests, either personally or through his employment, of any of the parties to the transfer or sale of a residential building on which he has performed a certified home inspection; or
  5. Perform a certified home inspection of a residential building under a contingent agreement whereby any compensation or future referrals are dependent on the reported findings or on the sale of the property.
- B. The certificate holder shall not disclose any information concerning the results of the certified home inspection without the approval of the client for whom the certified home inspection was performed. However, the certificate holder may disclose information in situations where there is an imminent endangerment to life or health.
- C. The certificate holder will not accept compensation, financial or otherwise, from more than one interested party for the same service on the same property without the consent of all interested parties.

- D. The certificate holder shall not accept nor offer commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with work for which the certificate holder is responsible. Additionally, the certificate holder shall not enter into any financial relationship with any party that may compromise the certificate holder's commitment to the best interest of his client.
- E. The certified home inspection shall not be used as a pretext by the certificate holder to solicit or obtain work in another field, except for additional diagnostic inspections or testing.

***Historical Notes***

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011.*

**18VAC15-40-150. Grounds for disciplinary action.**

The board has the power to fine any certificate holder and to suspend or revoke any certificate issued under the provisions of Chapter 5 (§ 54.1-500 et seq.) of Title 54.1 of the Code of Virginia, and this chapter, where the certificate holder has been found to have violated or cooperated with others in violating any provision of Chapter 1, 2, 3, or 5 of Title 54.1 of the Code of Virginia or this chapter.

***Historical Notes***

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003.*

**18VAC15-40-160. Maintenance of certificates, reports, and documentation.**

- A. A certificate holder shall at all times keep the board informed of his current home address. Changes of address shall be reported to the board in writing within 30 calendar days after such change. A physical address is required; a post office box is not acceptable. The board shall not be responsible for the certificate holder's failure to receive notices, communications and correspondence caused by the certificate holder's failure to promptly notify the board of any change of address.
- B. A certificate holder shall notify the board in writing of a name change within 30 calendar days of any change in the certificate holder's legal name. Such notification shall be accompanied by a copy of a marriage certificate, divorce decree, court order or other documentation that verifies the name change.
- C. A certificate holder shall retain all records pertaining to certified home inspections performed to include, but not limited to, written reports and supporting documentation for a period of three years from the date of the related certified home inspection.

*Historical Notes*

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003.*

**18VAC15-40-170. Provision of records to the board.**

A certificate holder shall, upon demand, produce to the board or any of its agents any written reports and supporting documentation concerning any certified home inspection in which the certificate holder was involved, or for which the certificate holder is required to maintain records for inspection and copying by the board or its agents.

*Historical Notes*

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003.*

**18VAC15-40-180. Response to inquiry of the board.**

A certificate holder shall respond to an inquiry from the board or any of its agents within 15 business days.

*Historical Notes*

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003.*

**18VAC15-40-190. Unworthiness and incompetence.**

The following shall constitute unworthy and incompetent conduct and may result in disciplinary action by the board:

1. Obtaining a certificate by false or fraudulent representation.
2. Performing improvements or repairs to a residential building as a result of the findings of the certified home inspection within 12 months before or after performing a certified home inspection on it, except in cases where the home inspector purchased the residential building after he performed the inspection.
3. Violating or inducing another person to violate any of the provisions of Chapter 1, 2, 3, or 5 of Title 54.1 of the Code of Virginia or this chapter.
4. Subject to the provisions of § 54.1-204 of the Code of Virginia, having been convicted or found guilty, regardless of adjudication in any jurisdiction of the United States, of any misdemeanor involving violence, repeat offenses, multiple offenses, or crimes that endangered public health

or safety, or of any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. A certified copy of a final order, decree, or case decision by a court with the lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or guilt.

5. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty, regardless of adjudication in any jurisdiction of the United States of any misdemeanor involving violence, repeat offenses, multiple offenses, or crimes that endangered public health or safety, or of any felony, there being no appeal pending therefrom or the time for appeal having elapsed.
6. Failing to act as a certificate holder in such a manner as to safeguard the interests of the public.
7. Engaging in improper, fraudulent, or dishonest conduct in conducting a certified home inspection.
8. Having been found guilty by the board, an administrative body, or by any court of any misrepresentation in the course of performing home inspections.
9. Having performed a certified home inspection when not qualified by training or experience to competently perform any part of the certified home inspection.
10. Failing to maintain, through training, the proficiency to perform Virginia certified home inspections.

***Historical Notes***

*Derived from Virginia Register Volume 19, Issue 18, eff. July 1, 2003; Volume 27, Issue 11, eff. April 1, 2011.*

**Included in this booklet are relevant excerpts from the *Code of Virginia*. Please note that the Virginia General Assembly is responsible for creating and amending the *Code*, not the Virginia Board for Asbestos, Lead, Mold, and Home Inspectors. The version contained herein contains all changes, if any, that have been made by the General Assembly through the 2011 session. Any changes made during the 2011 session became effective July 1, 2011, unless otherwise noted. It is your responsibility to stay informed of revisions to the regulations and the statutes governing your profession or occupation. Please consult the General Assembly or your local library for annual changes.**

§ 54.1-500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Accredited asbestos training program" means a training program that has been approved by the Board to provide training for individuals to engage in asbestos abatement, conduct asbestos inspections, prepare management plans, prepare project designs or act as project monitors.

"Accredited lead training program" means a training program that has been approved by the Board to provide training for individuals to engage in lead-based paint activities.

"Accredited renovation training program" means a training program that has been approved by the Board to provide training for individuals to engage in renovation or dust clearance sampling.

"Asbestos" means the asbestiform varieties of actinolite, amosite, anthophyllite, chrysotile, crocidolite, and tremolite.

"Asbestos analytical laboratory license" means an authorization issued by the Board to perform phase contrast, polarized light, or transmission electron microscopy on material known or suspected to contain asbestos.

"Asbestos contractor's license" means an authorization issued by the Board permitting a person to enter into contracts to perform an asbestos abatement project.

"Asbestos-containing materials" or "ACM" means any material or product which contains more than 1.0 percent asbestos or such other percentage as established by EPA final rule.

"Asbestos inspector's license" means an authorization issued by the Board permitting a person to perform on-site investigations to identify, classify, record, sample, test and prioritize by exposure potential asbestos-containing materials.

"Asbestos management plan" means a program designed to control or abate any potential risk to human health from asbestos.

"Asbestos management planner's license" means an authorization issued by the Board permitting a person to develop or alter an asbestos management plan.

"Asbestos project" or "asbestos abatement project" means an activity involving job set-up for containment, removal, encapsulation, enclosure, encasement, renovation, repair, construction or alteration of an asbestos-containing material. An asbestos project or asbestos abatement project shall not include nonfriable asbestos-containing roofing, flooring and siding materials which when installed, encapsulated or removed do not become friable.

"Asbestos project designer's license" means an authorization issued by the Board permitting a person to design an asbestos abatement project.

"Asbestos project monitor's license" means an authorization issued by the Board permitting a person to monitor an asbestos project, subject to Department regulations.

"Asbestos supervisor" means any person so designated by an asbestos contractor who provides on-site supervision and direction to the workers engaged in asbestos projects.

"Asbestos worker's license" means an authorization issued by the Board permitting an individual to work on an asbestos project.

"Board" means the Virginia Board for Asbestos, Lead, Mold, and Home Inspectors.

"Certified home inspection" means any inspection of a residential building for compensation conducted by a certified home inspector. A certified home inspection shall include a written evaluation of the readily accessible components of a residential building, including heating, cooling, plumbing, and electrical systems; structural components; foundation; roof; masonry structure; exterior and interior components; and other related residential housing components. A certified home inspection may be limited in scope as provided in a home inspection contract, provided such contract is not inconsistent with the provisions of this chapter or the regulations of the Board.

"Certified home inspector" means a person who meets the criteria of education, experience, and testing required by this chapter and regulations of the Board and who has been certified by the Board.

"Dust clearance sampling" means an on-site collection of dust or other debris that is present after the completion of a renovation to determine the presence of lead-based paint hazards and the provisions of a report explaining the results.

"Dust sampling technician" means an individual licensed by the Board to perform dust clearance sampling.

"Friable" means that the material when dry may be crumbled, pulverized, or reduced to powder by hand pressure and includes previously nonfriable material after such previously nonfriable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

"Lead abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards, including lead-contaminated dust or soil.

"Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

"Lead-based paint activity" means lead inspection, lead risk assessment, lead project design and abatement of lead-based paint and lead-based paint hazards, including lead-contaminated dust and lead-contaminated soil.

"Lead-contaminated dust" means surface dust that contains an area or mass concentration of lead at or in excess of levels identified by the Environmental Protection Agency pursuant to § 403 of TSCA (15 U.S.C. § 2683).

"Lead-contaminated soil" means bare soil that contains lead at or in excess of levels identified by the Environmental Protection Agency.

"Lead contractor" means a person who has met the Board's requirements and has been issued a license by the Board to enter into contracts to perform lead abatements.

"Lead inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and the provisions of a report explaining the results of the investigation.

"Lead inspector" means an individual who has been licensed by the Board to conduct lead inspections and abatement clearance testing.

"Lead project design" means any descriptive form written as instructions or drafted as a plan describing the construction or setting up of a lead abatement project area and the work practices to be utilized during the lead abatement project.

"Lead project designer" mean an individual who has been licensed by the Board to prepare lead project designs.

"Lead risk assessment" means (i) an on-site investigation to determine the existence, nature, severity and location of lead-based paint hazards and (ii) the provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

"Lead risk assessor" means an individual who has been licensed by the Board to conduct lead inspections, lead risk assessments and abatement clearance testing.

"Lead supervisor" means an individual who has been licensed by the Board to supervise lead abatements.

"Lead worker" or "lead abatement worker" means an individual who has been licensed by the Board to perform lead abatement.

"Mold" means any living or dead fungi or related products or parts, including spores, hyphae, and spore-producing structures.

"Mold analysis" means the examination of a sample collected during a mold inspection for the purpose of (i) determining the amount or presence of or identifying the genus, species, or functional grouping of any living or dead mold present in the sample or (ii) identifying or determining the amount or presence of any fungal products including, but not limited to, mycotoxins and fungal volatile organic compounds present in the sample.

"Mold inspection" includes (i) an inspection, investigation, or survey of a dwelling or other structure to determine the presence of mold; (ii) the development of a mold management plan or mold remediation protocol; or (iii) the collection or analysis of a mold sample.

"Mold inspector" means an individual who has been licensed by the Board to perform mold inspections.

"Mold remediation" means cleaning mold from building material surfaces or the removal of contaminated building materials that are unsalvageable and other activities, including applying biocides or antimicrobial compounds and sanitization protocols, intended to prevent future mold contamination.

"Mold remediator" means an individual licensed by the Board to perform mold remediation.

"Person" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association or any other individual or entity.

"Principal instructor" means the individual who has the primary responsibility for organizing and teaching an accredited asbestos training program, an accredited lead training program, an accredited renovation training program, or any combination thereof.

"Renovation" means the modification of any existing structure or portion thereof, for compensation, that results in the disturbance of painted surfaces, unless that activity is performed as a part of a lead abatement. As used in this definition, "compensation" shall include the receipt of (i) pay for work performed, such as that paid to contractors and subcontractors; (ii) wages, including but not limited to those paid to employees of contractors, building owners, property management companies, child-occupied facilities operators, state and local government agencies, and nonprofit organizations; and (iii) rent for housing constructed before January 1, 1978, or child-occupied facilities in public or commercial building space.

"Renovation contractor" means a person who has met the Board's requirements and has been issued a license by the Board to conduct renovations.

"Renovator" means an individual who has been issued a license by the Board to perform renovations or to direct others who perform renovations.

"Residential building" means, for the purposes of home inspection, a structure consisting of one to four dwelling units used or occupied, or intended to be used or occupied, for residential purposes.

"Training manager" means the individual responsible for administering a training program and monitoring the performance of instructors for an accredited asbestos training, accredited lead training program or accredited renovation training program.

(1987, c. 579, § 54-145.4; 1988, cc. 765, 802; 1989, c. 397; 1990, cc. 49, 73, 823; 1992, c. 152; 1993, cc. 499, 660; 1994, cc. 185, 911; 1996, cc. 76, 176, 180, 846; 1997, c. 885; 1998, c. 739; 2001, c. 723; 2009, cc. 358, 819.)

§ 54.1-500.1. Virginia Board for Asbestos, Lead, Mold, and Home Inspectors; membership; meetings; offices; quorum.

The Virginia Board for Asbestos, Lead, Mold, and Home Inspectors shall be appointed by the Governor and composed of 15 members as follows: one shall be a representative of a Virginia-licensed asbestos contractor, one shall be a representative of a Virginia-licensed lead contractor, one shall be a representative of a Virginia-licensed renovation contractor, one shall be either a Virginia-licensed asbestos inspector or project monitor, one shall be a Virginia-licensed lead risk assessor, one shall be a Virginia-licensed renovator, one shall be a Virginia-licensed dust sampling technician, one shall be a representative of a Virginia-licensed asbestos analytical laboratory, one shall be a representative of an asbestos, lead, or renovation training program, one shall be a member of the Board for Contractors, two shall be certified home inspectors, one shall be a licensed mold inspector or a licensed mold remediator, and two shall be citizen members. After initial staggered terms, the terms of members of the Board shall be four years, except that vacancies may be filled for the remainder of the unexpired term. The two home inspector members appointed to the Board shall have practiced as home inspectors for at least five consecutive years immediately prior to appointment. The mold inspector or mold remediator member appointed to the Board shall have practiced as a mold inspector or mold remediator for at least three consecutive years immediately prior to appointment. The mold inspector or mold remediator member shall not vote on any matters before the Board except matters related to mold inspection or remediation until July 1, 2010. The renovation contractor, renovator, and dust sampling technician members appointed to the board shall have practiced respectively as a renovation contractor, renovator, or dust sampling technician for at least five consecutive years prior to appointment.

The Board shall meet at least four times each year and other such times as it deems necessary. The Board shall elect from its membership a chairman and a vice-chairman to serve for a period of one year. Eight members of the Board shall constitute a quorum. The Board is vested with the powers and duties necessary to execute the purposes of this chapter.

(1993, c. 660; 1994, cc. 185, 911; 1996, cc. 180, 846; 1997, c. 885; 2001, c. 723; 2009, cc. 358, 819.)

§ 54.1-501. Powers and duties of the Board.

The Board shall administer and enforce this chapter. The Board shall:

1. Promulgate regulations necessary to carry out the requirements of this chapter in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) to include but not be limited to the prescription of fees, procedures, and qualifications for the issuance and renewal of asbestos, lead, and renovation licenses, and governing conflicts of interest among various categories of asbestos, lead, and renovation licenses;
2. Approve the criteria for accredited asbestos training programs, accredited lead training programs, accredited renovation training programs, training managers, and principal instructors;
3. Approve accredited asbestos training programs, accredited lead training programs, accredited renovation training programs, examinations and the grading system for testing applicants for asbestos, lead, and renovation licensure;
4. Promulgate regulations governing the licensing of and establishing performance criteria applicable to asbestos analytical laboratories;
5. Promulgate regulations governing the functions and duties of project monitors on asbestos projects, circumstances in which project monitors shall be required for asbestos projects, and training requirements for project monitors;
6. Promulgate, in accordance with the Administrative Process Act, regulations necessary to establish procedures and requirements for the: (i) approval of accredited lead training programs, (ii) licensure of individuals and firms to engage in lead-based paint activities, and (iii) establishment of standards for performing lead-based paint activities consistent with the Residential Lead-based Paint Hazard Reduction Act and United States Environmental Protection Agency regulations. If the United States Environmental Protection Agency (EPA) has adopted, prior to the promulgation of any related regulations by the Board, any final regulations relating to lead-based paint activities, then the related regulations of the Board shall not be more stringent than the EPA regulations in effect as of the date of such promulgation. In addition, if the EPA shall have outstanding any proposed regulations relating to lead-based paint activities (other than as amendments to existing EPA regulations), as of the date of promulgation of any related regulations by the Board, then the related regulations of the Board shall not be more stringent than the proposed EPA regulations. In the event that the EPA shall adopt any final regulations subsequent to the promulgation by the Board of related regulations, then the Board shall, as soon as practicable, amend its existing regulations so as to be not more stringent than such EPA regulations;
7. Promulgate regulations for certification of home inspectors not inconsistent with this chapter regarding the professional qualifications of home inspectors applicants, the requirements necessary for passing home inspectors examinations in whole or in part, the proper conduct of its examinations, the proper conduct of the home inspectors certified by the Board, the implementation of exemptions from certifications requirements, and the proper discharge of its duties;
8. Promulgate, in accordance with the Administrative Process Act, regulations necessary to establish procedures and requirements for the (i) approval of accredited renovation training

programs, (ii) licensure of individuals and firms to engage in renovation, and (iii) establishment of standards for performing renovation consistent with the Residential Lead-based Paint Hazard Reduction Act and United States Environmental Protection Agency (EPA) regulations. Such regulations of the Board shall be consistent with the EPA Lead Renovation, Repair, and Painting Program final rule; and

9. Promulgate regulations for licensing of mold inspectors and mold remediators not inconsistent with this chapter regarding the professional qualifications of such applicants, the requirements necessary for passing applicable examinations in whole or in part, the proper conduct of its examinations, the proper conduct of the mold inspectors and mold remediators licensed by the Board, the implementation of exemptions from licensure requirements, and the proper discharge of its duties. The Board shall have the discretion to impose different requirements for licensure for the performance of mold inspections and mold remediation.

(1987, c. 579, § 54-145.5; 1988, c. 765; 1989, c. 397; 1990, cc. 49, 73, 823; 1991, c. 45; 1992, c. 477; 1993, cc. 499, 660; 1994, cc. 185, 911; 1995, cc. 543, 585; 1996, cc. 180, 846; 1997, cc. 649, 885; 1998, c. 739; 2001, c. 723; 2009, cc. 358, 819.)

#### § 54.1-501.1. Applicability.

The provisions of this chapter shall not apply to any employer, or any employees of such employer, regulated by the federal Occupational Safety and Health Act, and under the enforcement authority of the Occupational Safety and Health Administration.

(1992, c. 52.)

#### § 54.1-502. Interdepartmental implementation plan.

The Board, in conjunction with the Departments of General Services, Health, Labor and Industry, Education, and Environmental Quality, shall develop a plan for the implementation of this chapter which specifies the duties of each agency.

(1987, c. 579, § 54-145.6; 1988, cc. 765, 802; 1989, c. 397; 1990, cc. 73, 823; 1993, c. 660.)

#### § 54.1-503. Licenses required.

A. It shall be unlawful for any person who does not have an asbestos contractor's license to contract with another person, for compensation, to carry out an asbestos project or to perform any work on an asbestos project. It shall be unlawful for any person who does not have an asbestos project designer's license to develop an asbestos project design. It shall be unlawful for any person who does not have an asbestos inspector's license to conduct an asbestos inspection. It shall be unlawful for any person who does not have an asbestos management planner's license to develop an asbestos management plan. It shall be unlawful for any person who does not have a license as an asbestos project monitor to act as project monitor on an asbestos project.

B. It shall be unlawful for any person who does not possess a valid asbestos analytical laboratory license issued by the Board to communicate the findings of an analysis, verbally or in writing, for

a fee, performed on material known or suspected to contain asbestos for the purpose of determining the presence or absence of asbestos.

C. It shall be unlawful for any person who does not possess a license as a lead contractor to contract with another person to perform lead abatement activities or to perform any lead abatement activity or work on a lead abatement project. It shall be unlawful for any person who does not possess a lead supervisor's license to act as a lead supervisor on a lead abatement project. It shall be unlawful for any person who does not possess a lead worker's license to act as a lead worker on a lead abatement project. It shall be unlawful for any person who does not possess a lead project designer's license to develop a lead project design. It shall be unlawful for any person who does not possess a lead inspector's license to conduct a lead inspection. It shall be unlawful for any person who does not possess a lead risk assessor's license to conduct a lead risk assessment. It shall be unlawful for any person who does not possess a lead inspector's or lead risk assessor's license to conduct lead abatement clearance testing.

D. It shall be unlawful for any person who does not possess a license as a renovation contractor to perform renovation. It shall be unlawful for any person who does not possess a renovator's license to perform or direct others to perform renovation. It shall be unlawful for any person who does not possess a dust sampling technician's license to perform dust clearance sampling.

(1987, c. 579, § 54-145.7; 1988, cc. 765, 802; 1989, c. 397; 1990, c. 73; 1993, c. 660; 1994, cc. 185, 911; 1995, cc. 543, 585; 1996, cc. 180, 846; 1997, cc. 560, 885; 1998, c. 739; 2004, c. 133; 2009, c. 819.)

§ 54.1-504. Asbestos supervisor's or worker's license required; exception.

After July 1, 1988, it shall be unlawful for an individual who does not have an asbestos supervisor's license or worker's license to work on an asbestos project. No asbestos supervisor's license or worker's license shall be required for a supervisor or worker in the installation, maintenance, repair or removal of asbestos-containing roofing, flooring or siding material, provided that such supervisor or worker shall satisfy any training requirements promulgated by the Board pursuant to § 54.1-501.

(1987, c. 579, § 54-145.8; 1988, c. 765; 1989, c. 397; 1993, c. 660.)

§ 54.1-505. Qualification for an asbestos contractor's license.

To qualify for an asbestos contractor's license, an applicant shall:

1. Except as provided in § 54.1-504, ensure that each of his employees or agents who will come into contact with asbestos or who will be responsible for an asbestos project is licensed as an asbestos supervisor or worker; and
2. Demonstrate to the satisfaction of the Board that the applicant and his employees or agents are familiar with and are capable of complying fully with all applicable requirements, procedures and standards of the United States Environmental Protection Agency, the United States Occupational

Safety and Health Administration, the Department of Labor and Industry, and the State Air Pollution Control Board covering any part of an asbestos project.

(1987, c. 579, § 54-145.9; 1988, cc. 765, 802; 1989, c. 397; 1993, c. 660; 1996, cc. 180, 846.)

§ 54.1-506.

Repealed by Acts 1993, c. 660.

§ 54.1-507.

Repealed by Acts 1992, c. 477.

§§ 54.1-508. , 54.1-509.

Repealed by Acts 1993, c. 660.

§ 54.1-510.

Repealed by Acts 1988, c. 802.

§ 54.1-511.

Repealed by Acts 1993, c. 660.

§ 54.1-512. Exemptions from licensure.

A. In an emergency, the Board may, at its discretion, waive the requirement for asbestos contractor's, supervisor's and worker's licenses.

B. Any employer, and any employee of such employer, who conducts an asbestos project on premises owned or leased by such employer shall be exempt from licensure.

C. Notwithstanding the provisions of the Virginia Tort Claims Act (§ 8.01-195.1 et seq.), neither the Commonwealth nor any agency or employee of the Commonwealth shall be subject to any liability as the result of a determination made by the Board hereunder.

D. Nothing in this chapter shall be construed as requiring the licensure of a contractor who contracts to undertake a project, a portion of which constitutes an asbestos or lead abatement project or renovation, if all of the asbestos or lead abatement work or renovation is subcontracted to a person licensed to perform such work in accordance with the provisions of this chapter.

E. This chapter shall not apply to any person who performs lead-based paint activities within residences which they own, unless the residence is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being conducted or a child is residing in the property and has been identified as having an elevated blood-lead level.

F. This chapter shall not apply to renovations of owner-occupied housing constructed before 1978, provided the person performing renovations obtains a statement signed by the owner

providing that (i) no child under the age of six or pregnant woman resides in the structure, (ii) the residence is not a child-occupied facility, and (iii) the owner acknowledges that renovations may not include all of the lead-safe work practices contained in the EPA Lead Renovation, Repair, and Painting Program final rule.

G. This chapter shall not apply to any person who performs renovations on (i) housing constructed after January 1, 1978, (ii) housing for the elderly or persons with disabilities, unless a child under the age of six resides or is expected to reside in the structure, or (iii) a structure that does not have bedrooms.

(1987, c. 579, § 54-145.10:6; 1988, cc. 765, 807; 1989, c. 397; 1993, c. 660; 1996, cc. 180, 846; 1998, c. 739; 2009, c. 819.)

§ 54.1-513.

Repealed by Acts 1998, c. 739.

§ 54.1-514. Award of contracts by state agencies and political subdivisions.

A state agency or a political subdivision shall not award a contract in connection with an asbestos project to a person who does not hold an asbestos contractor's, inspector's, management planner's or project designer's license at the time the bid is submitted unless the general contractor to whom the contract is awarded will be contractually committed to have all asbestos related work performed by its own subcontractors who are appropriately licensed as asbestos contractors, inspectors, management planners or project designers pursuant to this chapter.

(1987, c. 579, § 54-145.10:8; 1988, cc. 765, 802; 1989, c. 397; 1990, c. 105; 1996, cc. 180, 846.)

§ 54.1-515. Employer discrimination; penalty.

Any employer who discriminates against or otherwise penalizes an employee who complains to or cooperates with the Board or any other governmental agency in administering this chapter is subject to the penalties in § 54.1-517.

(1987, c. 579, § 54-145.10:9; 1988, c. 765; 1993, cc. 499, 660.)

§ 54.1-516. Disciplinary actions.

A. The Board may reprimand, fine, suspend or revoke (i) the license of a lead contractor, lead inspector, lead risk assessor, lead project designer, lead supervisor, lead worker, asbestos contractor, asbestos supervisor, asbestos inspector, asbestos analytical laboratory, asbestos management planner, asbestos project designer, asbestos project monitor, asbestos worker, renovator, dust sampling technician, or renovation contractor or (ii) the approval of an accredited asbestos training program, accredited lead training program, accredited renovation training program, training manager or principal instructor, if the licensee or approved person or program:

1. Fraudulently or deceptively obtains or attempts to obtain a license or approval;

2. Fails at any time to meet the qualifications for a license or approval or to comply with the requirements of this chapter or any regulation adopted by the Board; or

3. Fails to meet any applicable federal or state standard when performing an asbestos project or service, performing lead-based paint activities, or performing renovations.

B. The Board may reprimand, fine, suspend or revoke the license of, (i) any asbestos contractor who employs or permits an individual without an asbestos supervisor's or worker's license to work on an asbestos project, (ii) any lead contractor who employs or permits an individual without a lead supervisor's or lead worker's license to work on a lead abatement project, or (iii) any renovation contractor who employs or permits an individual without a renovator's license to perform or to direct others who perform renovations.

C. The Board may reprimand, fine, suspend or revoke the certification of a home inspector.

D. The Board may reprimand, fine, suspend, or revoke the license of a mold inspector or remediator.

(1987, c. 579, § 54-145.10:10; 1988, cc. 765, 802; 1989, c. 397; 1990, c. 823; 1993, c. 660; 1994, cc. 185, 911; 1996, cc. 180, 846; 1997, c. 885; 1998, c. 739; 2001, c. 723; 2009, cc. 358, 819.)

§ 54.1-516.1. Summary suspension of licenses or approvals; allegations to be in writing.

The Board may suspend the license or the approval of any (i) accredited training program, (ii) training manager or (iii) principal instructor of any person holding a license issued by it without a hearing simultaneously with the institution of proceedings for a hearing or an informal fact finding conference, if the relevant board finds that there is a substantial danger to the public health or safety that warrants this action. The Board may meet by telephone conference call when summarily suspending a license or the approval of an accredited training program, training manager or principal instructor if a good faith effort to assemble a quorum of the Board has failed and, in the judgment of a majority of the members of the Board, the continued practice by the licensee or approved individual or training program constitutes a substantial danger to the public health or safety. Institution of proceedings for a hearing or an informal fact finding conference shall be provided simultaneously with the summary suspension. Such hearing or conference shall be scheduled within a reasonable time of the date of the summary suspension. Allegations of violations of this section shall be made in accordance with § 54.1-307.1.

(2004, c. 222.)

§ 54.1-517. Penalties for willful violations.

Notwithstanding any other provision of law, any person who willfully violates any provision of this chapter or any regulation related to licensure or training adopted pursuant to this chapter shall be guilty of a Class 1 misdemeanor for the first two violations and a Class 6 felony for a third and each subsequent violation within a three-year period.

In addition, licensed asbestos contractors, asbestos supervisors, asbestos inspectors, asbestos management planners, asbestos project designers, asbestos project monitors, asbestos analytical laboratories and asbestos workers, lead contractors, lead inspectors, lead risk assessors, lead project designers, lead supervisors, lead workers, renovators, dust sampling technicians, renovation contractors, and accredited asbestos training programs, accredited lead training programs, accredited renovator training programs, training managers or principal instructors may be assessed a civil penalty by the Board of not more than \$1,000 for an initial violation and \$5,000 for each subsequent violation within a three-year period arising from a willful violation of standards established by the Environmental Protection Agency, Occupational Safety and Health Administration, Department of Labor and Industry, or the Divisions of Air Pollution Control and Waste Management of the Department of Environmental Quality in a three-year period.

(1987, c. 579, § 54-145.10:11; 1988, cc. 765, 802; 1989, c. 397; 1990, c. 823; 1993, c. 660; 1994, cc. 185, 911; 1996, cc. 180, 846; 1997, c. 885; 1998, c. 739; 2009, c. 819.)

#### § 54.1-517.1. Applicability.

The certification program established under this article shall be voluntary and shall not be construed to restrict or otherwise affect the right of any person to conduct an inspection of a residential building for any purpose; however, no person may (i) refer to the inspection conducted as a "certified home inspection" or (ii) hold himself out as, or use the title of "certified home inspector," unless he has been certified in accordance with this article. Any person offering to provide or conduct a "certified home inspection" within the meaning of this chapter or through verbal claim, sign, advertisement, or letterhead representing himself as a "certified home inspector" shall be subject to the provisions of § 54.1-111 of this title.

(2001, c. 723.)

#### § 54.1-517.2. Requirements for certification.

The Board may issue a certificate to practice as a certified home inspector in the Commonwealth to any applicant who has submitted satisfactory evidence that he has successfully:

1. Completed any educational requirements as required by the Board;
2. Completed any experience requirements as required by the Board; and
3. Passed any written or electronic examination offered or approved by the Board.

The Board may issue a certificate to practice as a certified home inspector to any applicant who is a member of a national or state professional home inspectors association approved by the Board, provided that the requirements for the applicant's class of membership in such association are equal to or exceed the requirements established by the Board for all applicants.

(2001, c. 723.)

#### § 54.1-517.3. License required.

No individual shall offer to perform or perform mold inspections or mold remediation without a valid license issued by the Board, except as provided in § 54.1-517.4.

(2009, c. 358.)

§ 54.1-517.4. Exemptions from licensure.

The provisions of this article shall not apply to:

1. An individual performing mold remediation in an area in which the mold contamination for the total project affects a total surface area of less than 10 square feet; or
2. An owner or the managing agent or employee of an owner performing mold inspections or mold remediation on the owner's residential property, provided such property contains no more than four residential dwelling units.

(2009, c. 358.)

§ 54.1-517.5. Requirements for licensure.

A. The Board may issue a license to perform mold inspections or mold remediation in the Commonwealth to any applicant who has submitted satisfactory evidence that he has successfully:

1. Completed any educational requirements as required by the Board;
2. Completed any experience requirements as required by the Board; and
3. Passed any written or electronic examination offered or approved by the Board.

B. The Board may issue a license to perform mold inspections or mold remediation to any applicant who is certified by a national or state professional mold inspectors or mold remediators association approved by the Board, provided that the requirements for the applicant's class of membership in such association are equal to or exceed the requirements established by the Board for all applicants.

(2009, c. 358.)



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## NOTICE

PLEASE REFER TO FIRST PAGE OF BOOKLET FOR NOTES ON IMPORTANT CHANGES.