

Governor's Office of Management and Budget

Alexis Sturm

Director



IL Regulatory Sunset Act Review of The Illinois Home Inspector License Act

March 18, 2021

**To the Honorable JB Pritzker
Governor of Illinois**

Governor Pritzker:

The Governor's Office of Management and Budget (GOMB) in collaboration with the Illinois Department of Financial and Professional Regulation (IDFPR), in compliance with the requirements set forth in the Illinois Regulatory Sunset Act (5 ILCS 80), has conducted a review of the Illinois Home Inspector License Act (225 ILCS 441), which is scheduled to sunset on January 1, 2022. The following recommendation is pursuant to this review:

The Illinois Home Inspector License Act (225 ILCS 441) should be continued with the following modifications to its existing statutory and administrative rule framework.

- Add language allowing for citations as an alternative disciplinary tool for continuing education deficiencies. This will allow for more efficient enforcement provisions.
- Add a definition of "Email address of record," standardizing IDFPR's initiative to become more efficient and paperless.

The examination of this Act considered the nine factors set out in Section 6 of the Illinois Regulatory Sunset Act. The following report details the criteria and data utilized to come to the above recommendation.

Very sincerely and respectfully,

Alexis Sturm
Director
Governor's Office of Management and Budget

Criteria (1) “The extent to which the agency or program has permitted qualified applicants to serve the public.”

As of August 5, 2020, there are 2418 total licensees administered under the Act. Below is the number of new licenses issued in the previous 5 fiscal years.

	2016	2017	2018	2019	2020
Licensed Home Inspector	127	136	169	209	159
Licensed Home Inspector Entity	23	34	34	64	69
Licensed Home Inspector Education Provider	0	0	2	0	2
Licensed Home Inspector Pre-License Course	1	2	1	0	3
Licensed Home Inspector CE Course	0	8	8	1	29
Total:	151	180	214	274	262

The current licensure fee structure is as follows:

Type	Fee Amount
Home Inspector:	\$250
Home Inspector Entity:	\$250
Education Provider:	\$1000; \$500 per year renewal
Pre-license Course:	\$100; \$50 renewal
Continuing Education Course:	\$50; \$25 renewal
Cost of all renewal fees plus \$50 late fee for all expired/lapsed licenses:	\$50
Education waiver request fee:	\$50
Copy of Transcript:	Cost to produce copy
Copy of application, disciplinary order, or any record:	\$1 per page
Administrative fee per credit hour for CE courses completed after the renewal deadline:	\$100
Administrative fee part of compliance agreement issued with an administrative warning letter:	\$2000 Maximum

Illinois is one of 33 states to license home inspectors. Fifteen states do not license home inspectors. Pennsylvania only requires private certification; Vermont licenses Property Inspectors instead. Of the 26 states which require CE for home inspectors, Illinois is tied with Massachusetts and Rhode Island for the least burdensome amount of CE hours required per two-year renewal cycle (12 hours). Of the 29 states which require specific amounts of pre-license education hours, Illinois is tied for the 6th least burdensome (60 hours) along with Indiana, Oregon, and Mississippi. Illinois is one of only nine states which license home inspectors but does not require them to carry insurance.

Criteria (2) “The extent to which the trade, business, profession, occupation, or industry being regulated is being administered in a nondiscriminatory manner both in terms of employment and rendering of services.”

IDFPR adheres to strict guidelines and requirements established for each profession regulated by the Department. Licensing decisions are based on an applicant's ability to meet the requirements established by statute and administrative rule. Neither race nor any other identifier is a consideration for licensure under any of the professional licenses regulated by the Department. Consequently, the Department does not collect information from applicants to disclose their race or other social identifiers that could potentially lead to the act or perception of discrimination in licensing decisions.

Criteria (3) "The extent to which the regulatory agency or program has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, procedures, and practices of any other department of state government, and any other circumstances, including budgetary resources, and personnel matters."

IDFPR is tasked with processing applications for licenses and renewal licenses for over 1 million professionals practicing in the state of Illinois. The Department has adopted internal policies, sought legislative and administrative rule changes, and developed enhanced licensing processes to maintain efficiency and efficacy. Implementation of online, paperless licensing is one example of such a policy that has proved to be successful. While some procedures, such as the disciplinary process for licensees, can be lengthy, this is done to ensure thoroughness and proper due process for complaints against regulated professionals.

Criteria (4) "The extent to which the agency running the program has recommended statutory changes to the General Assembly that would benefit the public as opposed to the persons it regulates."

P.A. 100-892 (SB 3394) was an IDFPR initiative in 2018 which lowered the minimum age to be a home inspector from 21 to 18. P.A. 100-831 (HB 5210) was an IDFPR initiative in 2018 which permitted the Department to establish a continuing education deadline prior to the renewal deadline.

Criteria (5) "The extent to which the agency or program has required the persons it regulates to report to it concerning the impact of rules and decisions of the agency or the impact of the program on the public regarding improved service, economy of service, and availability of service."

IDFPR establishes rules and makes regulatory decisions through the process established by the Joint Committee on Administrative Rules (JCAR), the administrative body responsible for approving rule proposals by state agencies. This process allows for input from industry and community stakeholders impacted by the Department's proposed changes. The Department works with lawmakers, community stakeholders and members of industry to ensure that regulations effectively protect Illinois citizens.

Criteria (6) "The extent to which persons regulated by the agency or under the program have been required to assess the problems in their industry that affect the public."

Under the Act, the Department is required to appoint an employee to serve as be the direct liaison between the Department, the profession, home inspectors, and related industry organizations and associations. IDFPR may work with stakeholders and members of the industry to provide direct feedback.

Criteria (7) "The extent to which the agency or program has encouraged participation by the public in making its rules and decisions as opposed to participation solely by the persons it regulates and the extent to which such rules and decisions are consistent with statutory authority."

IDFPR adheres to the guidelines and requirements established by the Joint Committee on Administrative Rules (JCAR) and the Illinois General Assembly (ILGA) for approving rule proposals, legislative changes and internal policies. In addition, the Department adheres to the requirements established in the Illinois Open Meetings Act (5 ILCS 120).

Criteria (8) "The efficiency with which formal public complaints filed with the regulatory agency or under the program concerning persons subject to regulation have been processed to completion, by the executive director of the regulatory agencies or programs, by the Attorney General and by any other applicable department of the State government."

Complaints made against licensees of IDFPR's Division of Real Estate may be filed via mail, email, or phone. Once a complaint is opened, it is referred to the Division's Investigations Section to determine if a violation of the regulatory act or rules occurred. Findings made by the Investigations Section are then referred to the Division's Prosecutions Section.

Criteria (9) "The extent to which changes are necessary in the enabling laws of the agency or program to adequately comply with the factors listed in this section."

IDFPR recommends that statutory language be modernized in order to implement more streamlined and efficient regulation of this profession, which will ensure safety and welfare of the general public and ease the burden of regulatory compliance.

- Add language allowing for citations as an alternative disciplinary tool for continuing education deficiencies. This will allow for more efficient enforcement provisions.
- Add a definition of "Email address of record," standardizing IDFPR's initiative to become more efficient and paperless.

Conclusion:

For many people, buying a home arguably represents the single largest purchase they will ever make. Prospective purchasers of residential real estate are the primary consumer of home inspection services. While the Residential Real Property Disclosure Act (765 ILCS 77) requires owners/sellers to disclose to prospective buyers any material defects that would have a substantial adverse effect on the value of the residential real property or that would significantly impair the health or safety of future occupants, this is only limited to defects of which the seller is aware.

State law does not require a home inspection prior to purchase of a home, but home inspections are often contractually required and obtained to identify any defects the seller was unaware of or did not disclose. Home inspectors prepare detailed written evaluations of the property. These reports are then provided to the consumer. Ensuring standards of quality and uniformity in the inspections and subsequent reports ensures that any material defects in a property which pose a direct harm to the health or safety of an occupant or the value of the property, are correctly identified. This allows corrective action to be taken before harm occurs. The absence of regulation of home inspectors poses a direct threat to the health, safety, and welfare of the public.