



South Dakota Real Estate Commission
221 West Capitol Suite 101
Pierre, South Dakota 57501
Tel: 605.773.3600
Fax: 605.773.4356
sdrec.sd.gov

South Dakota Home Inspector Laws & Administrative Rules

SDCL 36-32-21C and ARSD 20:74 as of July, 2014

COPYRIGHT © 1967-2014 BY THE STATE OF SOUTH DAKOTA, REPRINTED BY PERMISSION.

The laws contained in this pamphlet are reprinted with the permission of the Code Commission. You are advised that the legislature amends these laws from time to time and that the laws contained here may be superseded by acts of the legislature. The current session laws and the codified laws of the State supersede any law that is in conflict with a law published in this pamphlet.

CHAPTER 36-21C

LICENSING HOME INSPECTORS

Section

- 36-21C-1. Definition of terms.
- 36-21C-2. Commission to license or register home inspectors.
- 36-21C-3. Home inspectors to be licensed or registered - Violation as misdemeanor.
- 36-21C-4. Application for license - Requirements.
- 36-21C-5. Application for registration - Requirements.
- 36-21C-6. Promulgation of rules for licensing and registration.
- 36-21C-7. Exceptions to home inspector licensing requirements.
- 36-21C-8. Issuing of license to persons licensed elsewhere.
- 36-21C-9. Initial provisions for licensing experienced home inspectors.
- 36-21C-10. Expiration and renewal of license or registration - Applications - Penalty for late filing.
- 36-21C-11. Suspension, revocation, reprimand or fine for violation of chapter.
- 36-21C-12. Fees and fines paid to commission fund.
- 36-21C-13. Grounds for refusing, suspending or revoking license or registration.
- 36-21C-14. Applicants for licensure and registration and licensees under disciplinary investigation to submit to criminal background check.

36-21C-1. Definition of terms. Terms used in this chapter mean:

- (1) "Client," any person who engages, or seeks to engage, the services of a home inspector for the purpose of obtaining inspection of and written report upon the condition of a residential building;
- (2) "Commission," the South Dakota Real Estate Commission;
- (3) "Home inspector," any person registered or licensed as a home inspector pursuant to the provisions of this chapter;
- (4) "Home inspection," an inspection and written evaluation of all the following components of a residential building: heating system, cooling system, plumbing system, electrical system, structural components, foundation, roof, masonry structure, and exterior and interior components;
- (5) "Residential building," a structure consisting of not more than four family dwelling units.

36-21C-2. Commission to license or register home inspectors. The commission shall issue and renew certificates to licensed and registered home inspectors pursuant to the provisions of this chapter.

36-21C-3. Home inspectors to be licensed or registered - Violation as misdemeanor. No person may provide, or hold oneself out as able to provide, a home inspection for compensation unless registered or licensed in accordance with the provisions of this chapter. A violation of this section is a Class 1 misdemeanor.

36-21C-4. Application for license - Requirements. An applicant for a license as a home inspector shall file a written application provided by the commission showing that the applicant meets the following requirements:

- (1) Good moral character;
- (2) Successful completion of high school or high school equivalency;
- (3) Employment as a registered home inspector for no less than one year and performance of not less than one hundred home inspections for compensation; and
- (4) Successful completion of a licensing examination approved by the commission.

36-21C-5. Application for registration - Requirements. An applicant for registration as a home inspector shall file a written application provided by the commission showing that the applicant meets the following requirements:

- (1) Good moral character;
- (2) Successful completion of high school or high school equivalency;
- (3) Successful completion of an approved course of study of not less than forty hours, as prescribed by the commission in rules promulgated pursuant to chapter 1-26; and
- (4) Successful completion of a registration examination approved by the commission.

36-21C-6. Promulgation of rules for licensing and registration. The commission shall promulgate rules pursuant to chapter 1-26 for licensed and registered home inspectors in the following areas:

- (1) Standards and requirements for prelicense and continuing education, including qualifications of instructors, procedures for granting a certificate of accreditation, notification of a material change in an approved course offering, suspension, revocation, and denial of course approval, certification of attendance, preregistration, and hours required to renew a license or registration;
- (2) A code of ethics and standards of practice;

- (3) Fees for applications, examinations, registration, licensure, and renewals, not to exceed two hundred dollars for application and one hundred dollars for renewal;
- (4) Procedures and qualifications for application, minimum requirements for examination, procedures for the examination and the administration of the examination, the required score for passing the examination, and procedures for replacement of a license;
- (5) Procedures for disciplinary proceedings, including requirements for filing a complaint, dismissal of a complaint, informal and formal resolution of a complaint, formal complaint and answer requirements, final action and review, disqualification of a commission member from a hearing, and authorization for per diem and mileage; and
- (6) Procedures for declaratory rulings, petitions for rules, and contested cases.

36-21C-7. Exceptions to home inspector licensing requirements. The provisions of this chapter do not apply to any of the following persons:

- (1) Any person who is employed as a code enforcement official by the state or a political subdivision of the state when acting within the scope of that governmental employment;
- (2) Any person regulated by the state as an architect, professional engineer, electrical contractor, or plumber, who is acting within the scope of practice of the person's profession or occupation;
- (3) Any real estate broker or salesperson licensed by the state when acting within the scope of that person's license;
- (4) Any real estate appraiser certified, licensed, or registered by the state when acting within the scope of that person's license;
- (5) Any person engaged as an insurance adjuster, when acting within the scope of that person's profession; or
- (6) Any manufactured home dealer who is licensed by the state, when acting within the scope of that person's license.

36-21C-8. Issuing of license to persons licensed elsewhere. Upon payment to the commission of a fee and the submission of a written application provided by the commission, the commission may issue a home inspector license to any person who holds a valid license issued by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this state, as determined by the commission.

36-21C-9. Initial provisions for licensing experienced home inspectors.

During the first three hundred sixty-five days after January 1, 2001, the commission shall issue to any person, upon application, a home inspector license, if the applicant meets the requirements of subdivisions 36-21C-4 (1), (2) and (4) and has been engaged in the practice of home inspections for compensation for not less than one year prior to January 1, 2001, and has performed not less than one hundred home inspections for compensation.

36-21C-10. Expiration and renewal of license or registration - Applications - Penalty for late filing.

Any license or registration expires on December thirty-first of the year following issuance and may be renewed biennially. An application for renewal shall be filed with the commission no later than November thirtieth of the year of expiration. Any renewal application filed after that date is subject to a late renewal penalty of twenty dollars per month or fraction thereof. However, no late renewal may be filed after June thirtieth of the year following the expiration of the registration or license.

36-21C-11. Suspension, revocation, reprimand or fine for violation of chapter.

The commission may suspend, revoke, reprimand, or assess a monetary penalty not to exceed two thousand five hundred dollars, or may provide for a combination or revocation, suspension, reprimand, or monetary penalty, for any violation of this chapter or any administrative rule adopted to administer this chapter.

36-21C-12. Fees and fines paid to commission fund.

All fees and any fines imposed by the commission shall be paid to the fund of the commission.

36-21C-13. Grounds for refusing, suspending or revoking license or registration.

The commission may refuse to grant or may suspend or revoke a home inspector license or registration upon proof, to the satisfaction of the commission that the holder has:

- (1) Disclosed any information concerning the results of the home inspection without the approval of a client or the client's representative;
- (2) Accepted compensation from more than one interested party for the same service without the written consent of all interested parties;
- (3) Accepted commissions or allowances, directly or indirectly, from other parties dealing with the holder's client in connection with work for which the holder is responsible; or
- (4) Failed to disclose promptly to a client information about any business interest of the holder, which may affect the client in connection with the home inspection.

- (5) Been convicted, or pled guilty or nolo contendere before a court of competent jurisdiction in this or any other state, or before any federal court, of a misdemeanor involving moral turpitude or a felony arising under the laws of this state or under the laws of the United States or any other state that would be a misdemeanor involving moral turpitude or a felony under the laws of this state.

36-21C-14. Applicants for licensure and registration and licensees under disciplinary investigation to submit to criminal background check. Each applicant for licensure and registration under this chapter in this state shall submit to a state and federal criminal background investigation by means of fingerprint checks by the Division of Criminal Investigation and the Federal Bureau of Investigation. Upon application, the commission shall submit completed fingerprint cards to the Division of Criminal Investigation. Upon completion of the criminal background check, the Division of Criminal Investigation shall forward to the commission all information obtained as a result of the criminal background check. This information shall be obtained prior to licensure of the applicant. The commission may require a state and federal criminal background check for any licensee who is the subject of a disciplinary investigation by the commission. Failure to submit or cooperate with the criminal background investigation is grounds for denial of an application or may result in revocation of a license. The applicant shall pay for any fees charged for the cost of fingerprinting or the criminal background investigation.

ARTICLE 20:74

HOME INSPECTORS

Chapter	
20:74:01	General rules.
20:74:02	Licensing and licenses.
20:74:03	Prelicensing education.
20:74:04	Continuing education.
20:74:05	Disciplinary proceedings.
20:74:06	Standards of practice.

CHAPTER 20:74:01

GENERAL RULES

Section	
20:74:01:01	Petition for declaratory ruling.
20:74:01:02	Commission action on petition.
20:74:01:03	Petition for contested case hearing.
20:74:01:04	Petition for review of decision on contested case.

20:74:01:01. Petition for declaratory ruling. Any person wishing the commission to issue its ruling as to the applicability to that person of a statutory provision, rule, or order of the commission may file a petition with the commission in substantially the following form:

**State of South Dakota
South Dakota Real Estate Commission**

Pursuant to the provisions of SDCL 1-26-15, I, (name of petitioner), of (address of petitioner), am (title or capacity of petitioner), and do hereby petition the South Dakota Real Estate Commission for its declaratory ruling in regard to the following:

1. The state statute or South Dakota Real Estate Commission rule or order in question is:
(here identify and quote the pertinent statute, rule, or order);
2. The facts and circumstances that give rise to the issue to be answered by the commission's declaratory ruling are:
3. The precise issue to be answered by the commission's declaratory ruling is:

Dated at (city and state), this _____ day of _____ 20_____.

(Signature of petitioner)

20:74:01:02 Commission action on petition. Upon receipt of a petition for a declaratory ruling, the commission may request from the petitioner any other information it requires for the issuance of its ruling. Following the receipt of the petition, the commission shall issue its declaratory ruling and serve a copy of it by mail on the petitioner.

20:74:01:03. Petition for contested case hearing. A person aggrieved by any action of the commission taken without a hearing may, within 30 days following the date of the commission action, petition the commission for a hearing to be held at a time and place established by the commission. The hearing is a contested case.

Cross-Reference: Procedure to follow in contested cases, SDCL 1-26-16 to 1-26-29, inclusive.

20:74:01:04. Petition for review of decision on contested case. Within ten days after receipt of the commission's decision, a party to the hearing may file a petition with the commission for review of its decision. The commission, in its discretion, may deny the petition, order a rehearing, or direct any other proceedings it considers appropriate. Upon rehearing or other proceedings, the commission may affirm, reverse, or modify its earlier decision. Notice of the commission's decision on the petition to review shall be served by mail on the petitioner and other affected parties.

CHAPTER 20:74:02

LICENSING AND LICENSES

Section

- 20:74:02:01 Authority to take examination.
- 20:74:02:02 Registering for examination.
- 20:74:02:03 Administration of examination.
- 20:74:02:04 Passing score on licensing examination.
- 20:74:02:05 Cheating on examination.
- 20:74:02:06 Application for registration.
- 20:74:02:07 Application for license.
- 20:74:02:08 Application fee.
- 20:74:02:09 Biennial renewal fee.
- 20:74:02:10 Replacement of license.
- 20:74:02:11 Reciprocal agreements.
- 20:74:02:12 Application by reciprocity -- Certificate of licensure required.

20:74:02:01. Authority to take examination. A person may not take the home inspector examination unless the person has completed the prescribed prerequisite education and registered to take the examination on a form provided by the commission.

20:74:02:02. Registering for examination. A person registering to take the home inspector examination must complete the prerequisite education before submitting the registration.

20:74:02:03. Administration of examination. The licensing examination shall be conducted under the supervision of the executive director of the commission. Before beginning the examination, the person must state in writing that the person has not solicited or received any information concerning the contents of the examination about to be written and during or subsequent to the examination will not disclose its contents.

20:74:02:04. Passing score on licensing examination. The passing score on the examination is 75.

20:74:02:05. Cheating on examination. The examination of any person who is caught cheating during an examination is void.

20:74:02:06. Application for registration. An applicant for registration by examination shall file an application with the commission on a form provided by the commission within 60 days after the date of notice of having passed the examination. The application shall be accompanied with proof that the applicant successfully completed the education within the preceding two years, and has successfully completed the examination.

20:74:02:07. Application for license. An applicant for license by examination shall file an application with the commission on a form provided by the commission within 60 days after the date of notice of having passed the examination.

20:74:02:08. Application fee. The application fee for a home inspector's license or registration is \$200.

20:74:02:09. Biennial renewal fee. The biennial renewal fee for a home inspector's license or registration is \$100.

20:74:02:10. Replacement of license. If a license or registration certificate is lost, misplaced, stolen, or destroyed, the home inspector shall immediately report that fact to the commission in writing. Upon the commission's receipt of this report by the licensee, the commission may issue a duplicate of the original license. The fee for a duplicate license is \$15.

20:74:02:11. Reciprocal agreements. The commission may enter into written agreement with other states with standards equivalent to those of this state for the purpose of licensing by reciprocity.

20:74:02:12. Application by reciprocity -- Certificate of licensure required. An applicant for registration or license by reciprocity shall file an application on a form provided by the commission and shall submit a certificate of licensure from the licensing agency of the applicant's state, completed within the 30 days before the application, stating that the applicant's license is in good standing and that no complaint is pending.

CHAPTER 20:74:03

PRELICENSING EDUCATION

Section

20:74:03:01	Application for approval of classroom instruction -- Fee required.
20:74:03:01.01	Criteria for approval of classroom instruction.
20:74:03:02	Contents of home inspection course.
20:74:03:03	Qualifications for classroom instructor.
20:74:03:03.01	Instructors.
20:74:03:03.02	Application for approval of instructor -- Guest speakers exempt.
20:74:03:03.03	Utilization of guest speakers -- Résumé to accompany course application.
20:74:03:03.04	Certificate of instructor approval -- Approval certificates not issued to guest speakers.
20:74:03:05	Instructional techniques.
20:74:03:06	Approval of classroom instruction, distance education, or independent study course.
20:74:03:07	Classroom hour.
20:74:03:08	Hours of instruction.
20:74:03:09	Certificate of approval.
20:74:03:10	Examination.
20:74:03:11	Reexamination.
20:74:03:12	Schedule.
20:74:03:13	Auditing.
20:74:03:14	Withdrawal of course or instructor approval.
20:74:03:14.01	Denial of course or instructor approval.
20:74:03:15	Withdrawal of approval for inactivity.
20:74:03:16	Conditions for credit for alternative courses.
20:74:03:17	Application for credit for alternative courses.
20:74:03:18	Credit for previously unapproved courses.
20:74:03:19	Prelicensing education certificate of attendance.
20:74:03:20	Course provider reporting requirements.
20:74:03:21	Preregistration allowed -- Notice of cancellation required.
20:74:03:22	Application for approval of distance education or independent study.
20:74:03:23	Additional requirements for distance education course offerings.
20:74:03:24	Distance education defined.
20:74:03:25	Independent study defined.
20:74:03:26	Standards for distance education.
20:74:03:27	Criteria for distance education or independent study course approval.
20:74:03:28	Student certification required.
20:74:03:29	Material change.
20:74:03:30	Classroom, distance education, and independent study course application fees.

20:74:03:01. Application for approval of classroom instruction -- Fee required. A course provider who wishes to provide classroom instruction to prospective home inspectors shall apply on a form provided by the commission. The application

must be filed with the commission at least 30 days before the course begins and must include a fee pursuant to § 20:74:03:30.

20:74:03:01.01. Criteria for approval of classroom instruction. The application form for approval of classroom instruction shall include the following information and enclosures:

- (1) Name, address, and telephone number of the course provider;
- (2) The title of the course;
- (3) A complete description or copies of all materials to be distributed to the participants;
- (4) The date and exact location of each presentation of the course;
- (5) The duration and time of course;
- (6) A comprehensive, detailed outline of the subject matter together with course objectives, the time sequence of each segment, faculty for each segment, and teaching technique used in each segment;
- (7) The method of evaluation of the program;
- (8) The procedure for measuring attendance; and
- (9) A description of the faculty, including name, professional educational background, and practical or teaching experience. A complete résumé shall be furnished.

20:74:03:02. Contents of home inspection course. The home inspection course is a general course of the principles of home inspection and must be at least 40 hours long. The commission may vary the course from time to time. The course must include the South Dakota statutes and rules regarding home inspectors.

20:74:03:03. Qualifications for classroom instructor. Each course provider shall file an application for approval for each classroom course and an application for each instructor. Each instructor must have at least one of the following qualifications:

- (1) A bachelor's degree in the field in which the person is to teach;
- (2) A valid teaching certificate or credential from South Dakota or another state authorizing the holder to teach in the field of instruction being offered;
- (3) Five years of full-time experience in a professional trade or technical occupation in the applicable field; or
- (4) Any combination of at least five years of full-time applicable field experience and college level education.

20:74:03:03.01. Instructors. No instructor may teach prelicensing courses unless approved, by name, by the commission. However, a guest speaker may teach designated sections of a prelicensing course pursuant to § 20:74:03:03.02.

20:74:03:03.02. Application for approval of instructor -- Guest speakers exempt. An applicant for instructor approval shall apply on a form provided by the commission. A guest speaker is exempt from making application if requesting approval pursuant to § 20:74:03:03.03.

20:74:03:03.03. Utilization of guest speakers -- Résumé to accompany course application. A course provider may utilize guest speakers with expertise in a particular area in any approved course if an approved instructor is present at the time of the presentation. A course provider may, however, utilize a guest speaker without an approved instructor present with the prior written approval of the commission.

An application for approval of a course utilizing guest speakers must include a résumé of each speaker.

20:74:03:03.04. Certificate of instructor approval -- Approval certificates not issued to guest speakers. The commission shall grant a certificate of approval for each instructor approved by the commission. A certificate of approval will not be issued to a guest speaker who makes application pursuant to § 20:74:03:03.03.

20:74:03:04. Educational facilities. Any provider of an approved course must have the classrooms and other facilities and personnel necessary to implement the program.

20:74:03:05. Instructional techniques. Classroom courses must be presented to students through interactive instructional techniques. Interactive instruction includes providing a student the opportunity for immediate exchange with an instructor in a classroom setting and immediate assessment and remediation through computer assisted or other audio or audiovisual interactive instruction. An instructor may not provide instruction primarily by having students read text material, listen to audio tapes, watch video tapes or films, or study questions similar to those on the state licensing examinations.

20:74:03:06. Approval of classroom instruction, distance education, or independent study course. The commission shall notify the applicant in writing of its decision to grant or deny approval prior to the anticipated date of offering the course. No applicant may accept students without the commission's approval.

20:74:03:07. Classroom hour. A classroom hour is a period of at least 50 minutes of actual classroom instruction. Additional study assignments are not counted as hours of classroom instruction.

20:74:03:08. Hours of instruction. No more than eight hours of instruction may be offered in one day.

20:74:03:09. Certificate of approval. The commission shall grant a certificate of approval for each course approved by the commission. The certificate is valid for three years.

20:74:03:10. Examination. A final examination must be given in each course. A copy of the final examination and the answers must be filed with the commission.

20:74:03:11. Reexamination. A candidate for a license who fails the final examination of a prelicensing course may retake the examination without retaking the prelicensing education.

20:74:03:12. Schedule. A course provider shall furnish a schedule of all courses offered, including the date, time, and place where they will be offered, to the commission before the courses begin.

20:74:03:13. Auditing. The commission may audit courses. A course audit may include an examination of the facilities, instructional materials, instructional techniques and teaching aids utilized, organization and effect of the classroom presentation, accuracy of information provided, knowledge of subject matter, rapport established, and adherence to time requirements and course outline.

20:74:03:14. Withdrawal of course or instructor approval. If the commission at any time determines that an instructor or course is not continuing to meet the requirements of SDCL chapter 36-21C and this chapter, it shall immediately notify the course provider in writing detailing the deficiencies requiring correction. The approval by the commission shall continue 90 days from the date of the commission's written notice to the course provider, and if, at the expiration of that period, the course provider has failed to correct to the commission's satisfaction the deficiencies noted, the commission may withdraw approval of the instructor or course.

If the commission disciplines an instructor who holds a home inspector license for acts committed as a licensee, the commission may also withdraw the instructor's approval as an instructor.

Cross-Reference: Procedure for a contested case, SDCL chapter 1-26.

20:74:03:14.01. Denial of course or instructor approval. The commission may deny approval of a home inspection course or instructor if it is determined that either is not in compliance with SDCL chapter 36-21C and this article. A person aggrieved by denial of approval by the commission may file a written request for a hearing pursuant to § 20:74:01:03.

20:74:03:15. Withdrawal of approval for inactivity. The commission may withdraw its approval for any course that has not been offered for at least one year.

20:74:03:16. Conditions for credit for alternative courses. A person may apply to the commission for credit for courses on home inspection based on satisfactory completion of a similar course at one of the following institutions:

- (1) A regionally accredited college or university;
- (2) A regionally accredited vocational school; or
- (3) A course in a prelicensing education school or institute in a state that has statutorily mandated prelicensing education.

Satisfactory completion of a course, for the purpose of this section, means attaining a passing grade in the course as determined by the instructor.

20:74:03:17. Application for credit for alternative courses. An application for credit under § 20:74:03:04 must be accompanied by an authenticated transcript from

the college, university, vocational school, or prelicensing education school and a description of the course completed.

20:74:03:18. Credit for previously unapproved courses. A person completing a course, either classroom, distance education, or independent study, which has not received prior commission approval shall submit a complete list of the courses taken, the number of hours of study for each course, and the qualifications of the instructors and shall answer any additional questions which the commission may have regarding the course. After review of the information, the commission may approve the course and give the applicant credit for meeting all or a portion of the educational requirements imposed by SDCL chapter 36-21C.

20:74:03:19. Prelicensing education certificate of attendance. A course provider shall provide an individual certificate of attendance to each licensee upon completion of the prelicensing course. The certificate shall contain the licensee's name, the course title, the date, the location of the course, the number of approved credit hours, and the signature of the course provider or instructor. No certificate of attendance may be issued to a licensee who is absent for more than ten percent of the classroom hours.

20:74:03:20. Course provider reporting requirements. A course provider shall submit a list of participants to the commission within ten days after completion of a course. The course provider shall provide a course evaluation form to each licensee for completion and submit the completed course evaluations to the commission within ten days after completion of a course.

20:74:03:21. Preregistration allowed -- Notice of cancellation required. A course provider offering approved prelicensing education courses may require preregistration with a registration cutoff date. The requirement must be advertised prior to each course. The course provider must notify registrants if the course is cancelled. The notification must be made at least 48 hours before the time of the beginning of the course.

20:74:03:22. Application for approval of distance education or independent study course. A course provider desiring to give approved independent study or distance education courses to prospective real estate licensees shall apply on a form provided by the commission. The application must be filed with the commission at least 30 days before the course begins.

The application form shall include the following information and enclosures:

- (1) Name, address, and telephone number of the course provider;
- (2) Course title;
- (3) The specific subject matter requirement met by the course;
- (4) The names of any instructor who will be available to answer student questions, the means of contact, and the hours of availability;
- (5) The overall structure, functioning, and administration of the proposed course;
- (6) A complete list of all lessons, modules, and learning objectives for each;

- (7) An explanation of the remediation process which is in effect to accomplish mastery of material when specific deficiencies are identified; and
- (8) A description of the procedures used to ensure exam security.

20:74:03:23. Additional requirements for distance education course offerings. In addition to the requirements of § 20:74:03:21, an application for approval of a distance education course must include the following:

- (1) A complete description of any hardware, software, or other technology to be used by the provider and needed by the student to effectively engage in the delivery and completion of the course material and an assessment of the availability and adequacy of the equipment, software, or other technologies to the achievement of the course's instructional claims; and
- (2) An explanation of how the course measures, documents, and records that the student has engaged in the required interactive exercises, achieved the required level of mastery, and spent the required amount of time completing the course and how the course provides protection against loss of student data due to hardware or software failure or against inadvertent loss by the student.

20:74:03:24. Distance education defined. As used in this chapter, a distance education course is one in which instruction takes place in other than a traditional classroom setting, the instructor and student are in physically separate locations, and instructional methods include interactive video-based instruction, computer conferencing, interactive audio, interactive computer software, and internet-based instruction.

20:74:03:25. Independent study defined. As used in this chapter, an independent study is a course in which no interaction with an instructor is planned or implied as part of the learning process.

20:74:03:26. Standards for distance education. A distance education course must provide mastery of the material. The course must:

- (1) Divide the material into major learning units, each of which is further divided into modules of instruction;
- (2) Specify learning objectives for each learning unit or module of instruction. Learning objectives must be comprehensive enough to ensure that if all the objectives are met, the entire content of the course will be mastered;
- (3) Specify an objective, quantitative criterion for mastery used for each learning objective and provide a structured learning method designed to enable students to attain each objective;
- (4) Provide a means of diagnostic assessment of each student's performance on an ongoing basis during each module of instruction, including appropriate remediation if required; and

- (5) Require that the student demonstrate adequate comprehension of all material covered by the learning objectives for the module or unit before completing that module or unit.

20:74:03:27. Criteria for distance education or independent study course approval. The commission may approve any prelicensing course that is provided by a public or private school, organization, person, corporation, society, or similar organization. The commission, when acting on an application for approval of a course, shall consider the following minimum criteria:

- (1) The course provider must specify the learning objectives for each lesson and clearly demonstrate that the course covers the required subject matter. Objectives must be specific to ensure that all relative content is covered adequately to achieve mastery of the objectives;
- (2) The course provider must demonstrate that the course includes the same or reasonably similar informational content as a course that would otherwise qualify for the requisite number of hours of classroom-based instruction, and that students must proceed through and demonstrate comprehension of all the material;
- (3) If the course is a distance education course, it must include consistent and regular interactive events as appropriate to the medium. The interactive elements must be designed to promote student involvement in the learning process, and must directly support the student's achievement of the course's learning objectives. The course approval submission must identify the types of interactive events included in the course and specify how the interactive events contribute to the achievement of the stated learning objectives;
- (4) The course must require that the student demonstrate mastery of the learning objectives as designated for each lesson in order to successfully complete the lesson. The course must provide a mechanism of individual remediation to correct any deficiencies identified during the instruction and assessment process. In independent study courses, this remediation may be accomplished by quizzes or other exercises with detailed rationales in the answer key provided to students;
- (5) The course provider must measure, at regular intervals, the student's progress toward and completion of the mastery requirement of each lesson or module covering all the required subject matter. In the case of computer-based instruction, the course software must include automatic shutdown after a period of inactivity;
- (6) The applicant must demonstrate that approved instructors are available to answer student questions regarding course content at reasonable times and by reasonable means, including in-person contact, individual and conference telephone calls, E-mail, and fax. Communication by written postal correspondence alone is insufficient to satisfy the requirements of this subdivision;

- (7) The course provider shall provide reasonable security to ensure that the student who receives credit for the course is the student who enrolled in and completed the course. Both the school and the student must certify in writing that the student successfully completed the course; and
- (8) The course provider must require that the student pass a comprehensive exam of 100 multiple-choice questions with a minimum passing score of 80 percent.

20:74:03:28. Student certification required. Any school offering an approved distance education or independent study course must obtain from each student a certification statement substantially as follows: "I certify that I have personally completed each assigned module of instruction for this course without the assistance of any person other than my instructor and that all work represented as being mine is in fact my own work."

20:74:03:29. Material change. A course provider of an approved home inspection course shall immediately notify the commission of any material change contained in the application for approval or in the attached exhibits. A course provider may seek approval of a course subsequent to a course offering by submitting all information requested.

20:74:03:30. Classroom, distance education, and independent study course application fees. Course application fees include the following:

	Initial Approval	Renewal
Classroom	\$150.00	\$50.00
Distance Education	200.00	50.00
Independent Study	200.00	50.00
ARELLO Certified	75.00	50.00

CHAPTER 20:74:04

CONTINUING EDUCATION

Section	
20:74:04:01	Continuing education defined.
20:74:04:02	Distance education defined.
20:74:04:03	Independent study defined.
20:74:04:04	Interactive defined.
20:74:04:05	Standards for distance education.
20:74:04:06	Classroom hour
20:74:04:06.01	Length of course.
20:74:04:07	Requirements -- Exceptions.
20:74:04:08	Exceptions and extensions.
20:74:04:09	Criteria for continuing education course approval.
20:74:04:10	Criteria for distance education or independent study course approval.
20:74:04:11	Application for approval of classroom instruction -- Fee required.
20:74:04:12	Application for approval of distance education or independent study courses -- Fee required.
20:74:04:13	Additional requirements for a distance education course.
20:74:04:14	Student certification required.
20:74:04:15	Approval of out-of-state courses.
20:74:04:16	ARELLO certified courses approved for continuing education.
20:74:04:17	Certificate of approval.
20:74:04:18	Material change.
20:74:04:19	Denial of course or instructor approval.
20:74:04:19.01	Withdrawal of course or instructor approval.
20:74:04:20	Course credit.
20:74:04:21	Facilities.
20:74:04:21.01	Schedule.
20:74:04:22	Auditing.
20:74:04:23	Continuing education certificate of attendance -- Course evaluation.
20:74:04:23.01	Course provider reporting requirements.
20:74:04:24	Certificate retention.
20:74:04:25	Instructor report.
20:74:04:26	Preregistration allowed -- Notice of cancellation required.
20:74:04:27	Limit on independent study courses.
20:74:04:28	Classroom, distance education, and independent study course application fees.
20:74:04:29	Instructors.
20:74:04:30	Application for approval of instructors -- Guest speakers exempt.
20:74:04:31	Utilization of guest speakers -- Résumé to accompany course application.
20:74:04:32	Certificate of instructor approval -- Approval certificates not issued to guest speakers.

20:74:04:01. Continuing education defined. As used in this chapter, continuing education means accredited educational experience derived from a licensed or registered home inspector's participation in approved lectures, seminars, or courses on

real property inspection, or in other related areas in real estate that have been approved by the commission, to maintain and improve the professional skills and upgrade the standard of all home inspectors.

The commission considers courses in the following areas to be acceptable when considering approval:

- (1) Legal issues affecting home inspectors;
- (2) Building codes, including plumbing, electrical, heating, cooling, ventilation and cooling codes as adopted by any regulatory agency in South Dakota;
- (3) Business standards of practice;
- (4) Report writing;
- (5) Environmental issues/hazardous substances/wood-destroying insects;
- (6) Ethics;
- (7) Building components;
- (8) Computer skills;
- (9) Fair housing;
- (10) Antitrust;
- (11) The Americans with Disabilities Act; and
- (12) Courses offered or approved by the South Dakota plumbing or electrical commission for licensed plumbers or electricians.

20:74:04:02. Distance education defined. As used in this chapter, a distance education course is one in which instruction takes place in other than a traditional classroom setting, the instructor and student are in physically separate locations, and instructional methods include interactive video-based instruction, computer conferencing, interactive audio, interactive computer software, and internet-based instruction.

20:74:04:03. Independent study defined. As used in this chapter, an independent study is a course in which no interaction with an instructor is planned or implied as part of the learning process.

20:74:04:04. Interactive defined. As used in this chapter, interactive means the course structure and technologies promote active student involvement with the course content, including the ability to access or bypass optional content, submit questions or answer test items and receive direct feedback, and communicate with other students and the instructor on an immediate or reasonably delayed basis. Interactive instructions specifically excludes courses that only provide passive delivery of instructional content.

20:74:04:05. Standards for distance education. A distance education course must provide mastery of the material. The course must:

- (1) Divide the material into major learning units, each of which is further divided into modules of instruction;
- (2) Specify learning objectives for each learning unit or module of instruction. Learning objectives must be comprehensive enough to ensure that if all the objectives are met, the entire content of the course will be mastered;

- (3) Specify an objective, quantitative criterion for mastery used for each learning objective and provide a structured learning method designed to enable students to attain each objective;
- (4) Provide a means of diagnostic assessment of each student's performance on an ongoing basis during each module of instruction, including appropriate remediation where required; and
- (5) Require that the student demonstrate adequate comprehension of all material covered by the learning objectives for the module or unit before completing that module or unit.

20:74:04:06. Classroom hour. A classroom hour is a period of at least 50 minutes of actual classroom instruction. Additional study assignments are not counted as hours of classroom instruction.

20:74:04:06.01. Length of course. No more than eight hours of instruction may be offered in one day.

20:74:04:07. Requirements -- Exceptions. A home inspector licensed or registered by the commission must complete 24 hours of continuing education requirements at time of renewal of the license or registration. A home inspector who has not completed the continuing education requirements may not conduct home inspections until the requirements are completed. The same continuing education hours may not be used for more than one renewal period.

20:74:04:08. Exceptions and extensions. The commission may make exceptions and grant extensions for continuing education for reasons of health, military service, or other good cause if proof is provided to the commission. The commission may exempt a nonresident licensee from the continuing education requirements if the licensee meets the requirements of SDCL 36-21C-8 and all of the home inspector licensing requirements in the state of residence.

20:74:04:09. Criteria for continuing education course approval. The commission may approve any course, seminar, conference, or equivalent that is provided by the commission, a public or private school, an organization, an association, a person, a corporation, a society, or similar organization. The commission, when acting on an application for approval of a course, shall consider the following minimum criteria:

- (1) A course must have a total instruction time of not less than three hours;
- (2) A course provider must certify to the best of its knowledge the attendance of each student at the course. The course provider shall submit its criteria for measuring attendance in the application for course approval on a form provided by the commission;
- (3) The course provider shall maintain for a minimum of three years records of students successfully completing a course;

- (4) Credit must be earned on the basis of attendance or, in the case of independent study or distance education courses, completion of the course;
- (5) Each course may have a coordinator or administrator supervising the program. The coordinator must be qualified, either through previous education or experience, to administer a home inspector course, to evaluate course content and instructors, and to analyze examinations; and
- (6) All instructors in a home inspection course must file with the commission credentials showing the necessary specialized preparation, training, and experience to ensure competent instruction. The commission shall approve each instructor individually. Approval must be obtained from the commission before the instructor's lecture in an approved course. Instructors, lecturers, seminar leaders, and others who present a continuing education course must meet at least one of the following qualifications:
 - (a) A bachelor's, graduate, or postgraduate degree in the field in which the person is to teach;
 - (b) A valid teaching credential or certificate from South Dakota or another state authorizing the holder to teach in the field of instruction being offered;
 - (c) Five years' full-time experience in a professional, trade, or technical occupation in the applicable field;
 - (d) Any combination of at least five years of full-time applicable field experience and college level education; or
 - (e) Expertise in specialized courses as approved by the commission.

20:74:04:10. Criteria for distance education or independent study course approval. The commission may approve any course that is provided by the commission, a public or private school, an organization, a person, a corporation, a society, or similar organization. The commission, when acting on an application for approval of a course, shall consider the following minimum criteria:

- (1) The course provider must specify the learning objectives for each lesson and clearly demonstrate that the objectives cover the required subject matter. Objectives must be specific to ensure that all relative content is covered adequately to ensure mastery of the objectives;
- (2) The course provider must demonstrate that the course includes the same or reasonably similar informational content as a course that would otherwise qualify for the requisite number of hours of classroom-based instruction, and that students must proceed through and demonstrate comprehension of all the material;
- (3) If the course is a distance education course, it must include consistent and regular interactive events as appropriate to the medium. The interactive elements must be designed to promote student involvement in the learning process and must directly support the student's achievement of the course's

learning objectives. The course approval submission must identify the types of interactive events included in the course and specify how the interactive events contribute to the achievement of the stated learning objectives;

- (4) The course must require that the student demonstrate mastery of the learning objectives as designated for each lesson in order to successfully complete the lesson. The course must provide a mechanism of individual remediation to correct any deficiencies identified during the instruction and assessment process. In independent study courses, this remediation may be accomplished by quizzes or other exercises with detailed rationales in the answer key provided to students;
- (5) The course provider must measure, at regular intervals, the student's progress toward and completion of the mastery requirement of each lesson or module covering all the required subject matter. In the case of computer-based instruction, the course software must include automatic shutdown after a period of inactivity;
- (6) The applicant must demonstrate that approved instructors are available to answer student questions regarding course content at reasonable times and by reasonable means, including in-person contact, individual and conference telephone calls, E-mail, and fax. Communication by written postal correspondence alone is insufficient to satisfy the requirements of this subdivision;
- (7) The course provider shall provide reasonable security to ensure that the student who receives credit for the course is the student who enrolled in and completed the course. Both the school and the student must certify in writing that the student has successfully completed the course; and
- (8) The course provider must require that the student pass an appropriate examination to successfully complete and receive credit. An examination will be considered appropriate if it contains at least five multiple-choice questions for each hour of credit and requires a minimum passing score of at least 80 percent.

20:74:04:11. Application for approval of classroom instruction -- Fee required. An application for approval of a course shall be on a form provided by the commission. The application must be filed with the commission at least 30 days before a course is offered and must be accompanied by an application fee pursuant to § 20:74:04:28. The application form shall include the following information and enclosure:

- (1) Name, address, and telephone number of the course provider;
- (2) The title of the course;
- (3) A complete description or copies of all materials to be distributed to the participants;
- (4) The date and exact location of each presentation of the course;
- (5) The duration and time of the course;

- (6) A comprehensive, detailed outline of the subject matter together with course objectives, the time sequence of each segment, faculty for each segment, and teaching technique used in each segment;
- (7) The method of evaluation of the program;
- (8) The procedure for measuring attendance; and
- (9) A description of the faculty, including name, professional educational background, and practical or teaching experience. A complete résumé shall be furnished.

20:74:04:12. Application for approval of distance education or independent study courses -- Fee required. An application for approval of a distance education or independent study course shall be on a form provided by the commission and must be accompanied by an application fee pursuant to § 20:74:04:28. The application form shall include the following information and enclosures:

- (1) Name, address, and telephone number of the course provider;
- (2) Course title;
- (3) The specific subject matter requirement met by the course;
- (4) The names of any instructor who will be available to answer student questions, the means of contact, and the hours of availability;
- (5) The overall structure, functioning, and administration of the proposed course;
- (6) A complete list of all lessons, modules, and learning objectives for each;
- (7) An explanation of the remediation process which is in effect to accomplish mastery of material when specific deficiencies are identified; and
- (8) A description of the procedures used to ensure examination security.

20:74:04:13. Additional requirements for a distance education course. In addition to the requirements of § 20:74:04:12, an application for approval of a distance education course must include the following:

- (1) A complete description of any hardware, software, or other technology to be used by the provider and needed by the student to effectively engage in the delivery and completion of the course material and an assessment of the availability and adequacy of the equipment, software, or other technologies to the achievement of the course's instructional claims; and
- (2) An explanation of how the course measures, documents, and records that the student has engaged in the required interactive exercises, achieved the required level of mastery, and spent the required amount of time completing the course and how the course provides protection against loss of student data due to hardware or software failure or against inadvertent loss by the student.

20:74:04:14. Student certification required. Any course provider offering an approved distance education or independent study course must obtain from each student a certification statement substantially as follows: "I certify that I have personally completed each assigned module of instruction for this course without the assistance of any person other than my instructor and that all work represented as being mine is in fact my own work."

20:74:04:15. Approval of out-of-state courses. If a South Dakota home inspector enrolls in a continuing education course approved by and offered in another state, that course may be used to meet continuing education requirements in South Dakota.

The licensee must provide proof of course completion and the other state's approval before the commission may accept the credits.

The licensee must apply for approval of the out-of-state course, on a form provided by the commission, within 60 days after the date that the course was completed.

20:74:04:16. ARELLO certified courses approved for continuing education. The commission may approve courses certified by the Association of Real Estate License Law Officials if appropriate documentation that the ARELLO certification is in effect and that the course meets the content requirements of § 20:74:04:01 is provided. Approval under this section shall cease if the ARELLO certification is discontinued.

20:74:04:17. Certificate of approval. The commission shall grant a certificate of approval for each course approved by the commission. The certificate remains valid for three years. A certificate of approval for a seminar course shall be valid for the duration of the seminar.

20:74:04:18. Material change. A course provider of each approved home inspector course shall immediately notify the commission of any material changes contained in the application for approval or in the attached exhibits. A course provider may seek approval of a course subsequent to a course offering by submitting all information requested.

20:74:04:19. Denial of course or instructor approval. The commission may deny approval of a home inspector course or instructor if it is determined that either is not in compliance with SDCL chapter 36-21C and this article. Any person aggrieved by denial of approval by the commission may file a written request for a hearing pursuant to § 20:74:01:04.

20:74:04:19.01. Withdrawal of course or instructor approval. If the commission at any time determines that a course or an instructor approved pursuant to chapter 20:74:04 is not continuing to meet the requirements of SDCL chapter 36-21C and this chapter, it shall immediately notify the course provider in writing detailing the deficiencies requiring correction. The approval by the commission shall continue 90 days from the date of the commission's written notice to the course provider, and if, at the expiration of that period, the course provider has failed to correct to the commission's satisfaction the deficiencies noted, the commission may withdraw approval of the course or instructor.

If the commission disciplines an instructor who holds a home inspector license for acts committed as a licensee the commission may also withdraw that licensee's approval as an instructor.

20:74:04:20. Course credit. Credit for completion of a course may be given only once to a home inspector during a reporting period.

20:74:04:21. Facilities. Each course provider must have the classrooms, facilities, equipment, and personnel necessary to implement the offerings.

20:74:04:21.01. Schedule. The course provider shall furnish a schedule of all courses, including the date, time, and place where they will be offered, to the commission before the courses begin.

20:74:04:22. Auditing. The commission or its representatives may audit courses. A course audit may include, but not limited to, a review of the facilities, instructional materials, instructional techniques and teaching aids utilized, organization and effect of the classroom presentation, accuracy of information provided, knowledge of subject matter, rapport established, and adherence to time requirements.

20:74:04:23. Continuing education certificate of attendance -- Course evaluation. A course provider shall provide an individual certificate of attendance to each home inspector upon completion of an approved course or seminar. The certificate shall contain the licensee's name, the course title, the date, the location of the course, the number of approved credit hours, and the signature of the course provider or instructor. No certificate of attendance may be issued to a home inspector who is absent for more than ten percent of the classroom hours.

20:74:04:23.01. Course provider reporting requirements. A course provider shall submit a list of participants to the commission within ten days after completion of a course. The course provider must provide a course evaluation form to each licensee for completion and submit the completed course evaluations to the commission within ten days after completion of a course.

20:74:04:24. Certificate retention. The licensee shall retain the attendance certificate provided upon course completion until the next license renewal period has been completed.

20:74:04:25. Instructor report. The course provider or instructor must submit a list of participants to the commission within ten days after completion of a course.

20:74:04:26. Preregistration allowed -- Notice of cancellation required. A course provider offering approved continuing education courses may require preregistration with a registration cutoff date. The requirement must be advertised prior to each course. The course provider must notify home inspectors who have preregistered if the course is cancelled. The notification must be made at least 48 hours before the course is set to begin.

20:74:04:27. Limit on independent study courses. No more than six hours of independent study courses may be used in any one period to fulfill continuing education requirements.

20:74:04:28. Classroom, distance education, and independent study course application fees. Course application fees include the following:

	Initial Approval	Renewal
Classroom	\$ 75.00	\$50.00
Distance Learning	150.00	50.00
Independent Study	75.00	50.00
ARELLO Certified	75.00	50.00
Seminar	15.00/hour	n/a

20:74:04:29. Instructors. No instructor unless approved, by name, by the commission may teach continuing education courses. This section does not apply to guest speakers as provided for in § 20:74:04:31.

20:74:04:30. Application for approval of instructors -- Guest speakers exempt. An applicant for instructor approval shall apply on a form provided by the commission. A guest speaker is exempt from making application if requesting approval pursuant to § 20:74:04:31.

20:74:04:31. Utilization of guest speakers -- Résumé to accompany course application. A course provider may utilize guest speakers with expertise in a particular area in any approved course if an approved instructor is present at the time of the presentation. A course provider may, however, utilize guest speakers without an approved instructor present with the prior written approval of the commission.

An application for approval of a course utilizing guest speakers must include a résumé of each speaker.

20:74:04:32. Certificate of instructor approval -- Approval certificates not issued to guest speakers. The commission shall grant a certificate of approval for each instructor approved by the commission. Certificates of approval will not be issued to guest speakers who make application pursuant to § 20:74:04:31.

CHAPTER 20:74:05

DISCIPLINARY PROCEEDINGS

Section

20:74:05:01	Complaints authorized -- Procedure following filing.
20:74:05:02	Dismissal of complaint.
20:74:05:03	Informal consultation.
20:74:05:04	Assurance of voluntary compliance.
20:74:05:05	Formal proceedings.
20:74:05:06	Contents of commission complaint.
20:74:05:07	Answer.
20:74:05:08	Disqualification.
20:74:05:09	Per diem and mileage.
20:74:05:10	Final action by commission.

Cross-Reference: Procedure to follow in licensing matters, SDCL 1-26-16 to 1-26-19.1, inclusive.

20:74:05:01. Complaints authorized -- Procedure following filing. Any person claiming that a home inspector has engaged or is engaging in conduct constituting grounds for disciplinary action may file with the executive director of the commission a written complaint, verified on oath, stating the name and address of the home inspector complained against and fully detailing the conduct against which the complaint is made and the relief sought. A commission member or the executive director may file a complaint. Upon its receipt, the executive director of the commission shall immediately serve a copy of the complaint by mail on the home inspector complained against and on any other affected parties. The home inspector complained against has 20 days to answer the complaint after its service. The home inspector shall serve an answer to the complaint on the executive director. The executive director may reject the complaint if it is not in proper form. The home inspector serving an answer under this section shall serve an original and eight copies on the executive director. The executive director may reject the answer for failure to serve the required number of copies.

20:74:05:02. Dismissal of complaint. After receipt of the answer to the complaint specified in § 20:74:05:01 or after the time has expired for the home inspector complained against to answer, the executive director shall submit the complaint and any answer to the commission. The commission shall examine the complaint to determine whether or not it has merit or is frivolous or whether or not it charges conduct constituting grounds for disciplinary action. If the commission determines that the complaint is without merit or is frivolous or that it charges conduct not constituting grounds for disciplinary action, it shall dismiss the complaint and notify in writing the complainant and the home inspector complained against and any other affected parties, stating the reasons for dismissal. If the relief sought does not fall within the jurisdiction of the commission, it shall dismiss the complaint.

20:74:05:03. Informal consultation. If the commission considers the complaint to be of a serious nature constituting grounds for disciplinary action, it may, in its discretion, consult with the party or parties affected in an effort to resolve the matter

satisfactorily without the necessity of a formal hearing. The commission shall notify in writing the person making the complaint, the home inspector complained against, and any other affected parties of the results of the informal consultation and any action taken. Informal consultation does not prevent the commission from thereafter conducting a formal hearing.

20:74:05:04. Assurance of voluntary compliance. In the enforcement of this chapter, the commission may accept an assurance of voluntary compliance regarding any act or practice alleged to violate this article or SDCL chapter 36-21C from a person who has engaged in, is engaging in, or is about to engage in such an act or practice. The assurance must be in writing and is subject to the approval of the commission. The assurance may include a stipulation for the voluntary payment by the alleged violator of the costs of the investigation and any amount necessary to restore to a person money or property which may have been acquired by the alleged violator by means of such an act or practice. Assurance of voluntary compliance is not considered an admission to a violation for any purpose.

20:74:05:05. Formal proceedings. If the commission decides to conduct a formal hearing after a complaint has been filed and after any informal consultation, the commission shall mail a formal complaint issued in its name and a notice of hearing to the home inspector complained against, the person making the complaint, and any other affected parties.

20:74:05:06. Contents of commission complaint. The commission complaint shall contain the name of the home inspector complained against, the name and address of the person making the complaint, the details of the conduct complained against, and the date of the formal commission complaint.

20:74:05:07. Answer. The home inspector may file prior to or submit at the time of hearing an answer admitting, denying, qualifying, or explaining any of the facts contained in the formal commission complaint. The answer must be filed within 20 days after the receipt of the formal commission complaint. The home inspector serving an answer under this section shall serve an original and eight copies on the executive director. The executive director may reject the answer for failure to serve the required number of copies.

20:74:05:08. Disqualification. If the complaint referred to in § 20:74:05:01 was filed by a commission member, that commission member is disqualified from sitting at the hearing as a commission member and from participating in the decision made by the commission. The commission member may appear as a witness and give advice as to procedure.

20:74:05:09. Per diem and mileage. The commission may authorize per diem and mileage for complainants and affected parties at informal consultations and for complainants and witnesses at formal hearings. The per diem may not exceed the amount specified in SDCL 19-5-1 and the mileage may not exceed that authorized by §§ 5:01:02:01 and 5:01:02:02.

20:74:05:10. Final action by commission. After hearing the evidence and arriving at a decision that unprofessional conduct has been proven, the commission may levy a fine, revoke the license, suspend the license, issue a letter of reprimand to be placed in the file of the person complained against, or take a combination of these actions. If unprofessional conduct has not been proven, the commission shall dismiss the complaint or the parts of the complaint not proven. A letter of reprimand shall state the actions against which a complaint was filed with the names, dates, places, and list of witnesses involved in the complaint. This section does not prevent the commission from compromising a formal hearing and the commission may also allow an assurance of voluntary compliance as prescribed by § 20:74:05:04.

CHAPTER 20:74:06

STANDARDS OF PRACTICE

Section

20:74:06:01	Standards of practice -- Applicability.
20:74:06:02	Code of ethics.
20:74:06:03	Written contract.
20:74:06:04	Purpose and scope of inspections.
20:74:06:05	General exclusions and limitations.
20:74:06:06	Structural components for inspection -- Exclusions.
20:74:06:07	Exterior components for inspection -- Exclusions.
20:74:06:08	Roofing components for inspection.
20:74:06:09	Interior components for inspection -- Exclusions.
20:74:06:10	Electrical components for inspection -- Exclusions.
20:74:06:11	Plumbing components for inspection -- Exclusions.
20:74:06:12	Central cooling components for inspection -- Exclusions.
20:74:06:13	Central heating components for inspection -- Exclusions.
20:74:06:14	Stove and fireplace components for inspection -- Exclusions.
20:74:06:15	Ventilation and insulation components for inspection -- Exclusions.

20:74:06:01. Standards of practice -- Applicability. Standards of practice for home inspectors are standards by which home inspectors operate their business, provide inspection guidelines, make public the services provided by private fee-paid inspectors, and define certain terms relating to home inspections. A home inspector shall employ the standards of practice as provided in this chapter. These standards are applicable to inspections of buildings with four or fewer dwelling units and their garages or carports.

20:74:06:02. Code of ethics. A home inspector shall adhere to the following guidelines of behavior:

- (1) A home inspector shall:
 - (a) Comply with all applicable state laws and regulations; and
 - (b) Disclose promptly to a client information about any business interest of the inspector which may affect the client in connection with the home inspection;
- (2) A home inspector may not:
 - (a) Discriminate against any person on the basis of race, color, religion, national origin, sex, familial status, disability, or creed;
 - (b) Disclose any information concerning the results of the home inspection without the approval of the client or the client's representative;

- (c) Accept compensation from more than one interested party for the same service without the written consent of all interested parties;
- (d) Accept compensation or allowances, directly or indirectly, from other parties dealing with the inspector's client for work for which the inspector is responsible;
- (e) Engage in false or misleading advertising or otherwise misrepresent any matter to the public; or
- (f) Bid on any recommendation for repair documented in the inspection report.

20:74:06:03. Written contract. Any contract for inspection shall be in writing and shall contain the following:

- (1) The signature of the client or the client's representative, and a representative of the inspection company;
- (2) A list of the general areas and components which will be inspected;
- (3) A list of general exclusions to the inspection;
- (4) The date;
- (5) The price of the inspection;
- (6) The identity of the client and inspection company with full name and address;
- (7) The address of the property to be inspected;
- (8) The person to whom the report will be provided; and
- (9) The license or registration number of the inspector.

20:74:06:04. Purpose and scope of inspections. Inspections performed to the standards of practice are intended to provide the client with a better understanding of the property condition as observed at the time of the inspection and inform the client about major deficiencies in the condition of the property. A home inspection is visual in nature and tests normal operating devices designed for day-to-day use. A home inspection does not include invasive procedures and is not technically exhaustive. A written report prepared for the client, either in narrative form, a checklist format, or a combination thereof, shall describe those components inspected in accordance with the standards of practice, and which of the components inspected were found to be in need of immediate major repair.

The standards of practice are not intended to limit inspectors from reporting observations and conditions in addition to those required by the standards of practice of from excluding systems and components from the inspection if requested by the client.

20:74:06:05. General exclusions and limitations. The following general exclusions and limitations apply to home inspectors:

- (1) An inspector is not required to report on:
 - (a) The life expectancy of any component or system;
 - (b) The causes of the need for a major repair;
 - (c) The methods, materials, and costs of a major repair;

- (d) The suitability of the property for any specialized use;
- (e) Compliance or noncompliance with applicable regulatory requirements;
- (f) The market value of the property or its marketability;
- (g) The advisability or inadvisability of purchase of the property;
- (h) Any component or system which was not observed;
- (i) The presence or absence of pests such as wood damaging organisms, rodents, or insects; or
- (j) Cosmetic items, underground items, or items not permanently installed;

(2) An inspector is not required to:

- (a) Offer to perform or perform any act or service contrary to law;
- (b) Offer warranties or guarantees of any kind;
- (c) Calculate the strength, adequacy, or efficiency of any system or component;
- (d) Enter any area or perform any procedure which may damage the property or its components, or be dangerous to the inspector or other persons;
- (e) Operate any system or component which is shut down or otherwise inoperable;
- (f) Operate any system or component which does not respond to normal operating conditions;
- (g) Disturb insulation, move personal items, furniture, equipment, plant life, soil, snow, ice, or debris, which obstructs access or visibility;
- (h) Determine the presence or absence of any suspected hazardous substance, including, but not limited to toxins, carcinogens, noise, or contaminants in soil, water, and air;
- (i) Determine the effectiveness of any system installed to control or remove suspected hazardous conditions;
- (j) Predict future conditions, including but not limited to failure of components; or
- (k) Evaluate acoustical characteristics of any system or component.

20:74:06:06. Structural components for inspection -- Exclusions. A home inspector shall inspect structural components as follows:

- (1) The inspector shall observe and report on the general appearance and condition of the following:
 - (a) Foundations, foundation walls, other support and sub-structure components, including carrying beams, support columns, and piers;
 - (b) Under-floor crawl spaces, basements, and attics;
 - (c) Floors, basement floor slabs, grade slabs, first and subsequent floors (if the framing is visible);
 - (d) Exterior walls for thickness and unusual conditions, such as excessive deflection;
 - (e) Support columns;
 - (f) Ceiling and floor structures;
 - (g) Roof structures; and
 - (h) Deck, balcony, and stairway supports and their method of attachment;

(2) The inspector shall report on noted indications of:

- (a) Water penetration;
- (b) Differential settlement and cracking indicating movement;
- (c) Harmful condensation;
- (d) Major moisture damage;
- (e) Visible damage by wood destroying organisms or insects or major areas of rot. (This is not to replace a thorough inspection by an appropriately credentialed or licensed wood destroying insect expert;

(3) The inspector is not required to:

- (a) Probe structural members if probing would damage the component or any finished surface;
- (b) Enter crawlspaces or attics if there is less than three feet of clearance, entry could damage the property, or dangerous or adverse situations are suspected; or
- (c) Provide engineering or architectural services.

20:74:06:07. Exterior components for inspection -- Exclusions. A home inspector shall inspect exterior components as follows:

(1) The inspector shall observe and report on the general appearance and condition of the following:

- (a) Exterior siding and trim work;
- (b) Eaves, soffit, and fascia;
- (c) Driveways, patios, and walkways;
- (d) Entry doors and a representative number of windows;
- (e) Garage door operators and reversing mechanisms;
- (f) Decks, balconies, stoops, steps, and porches, including railings; and
- (g) Grading, drainage, and retaining walls with respect to their effect on the condition of the building;

(2) The inspector is not required to observe:

- (a) Storm windows, storm doors, screening, shutters, awnings, and similar seasonal accessories;
- (b) Fences;
- (c) Safety glazing;
- (d) Garage door operator remote control transmitters;
- (e) Geological and soil conditions;
- (f) Recreational facilities; or
- (g) Out-buildings other than garages and carports.

20:74:06:08. Roofing components for inspection. A home inspector shall inspect roofing components as follows:

- (1) The inspector shall observe, when accessible, and report on the general appearance and condition of the following:
 - (a) The type of roof covering materials;
 - (b) Roof drainage systems (gutters, downspouts, etc.);
 - (c) Flashings;
 - (d) Skylights, chimneys, and roof penetrations; and
 - (e) Chimney and liner material, lack of chimney liners, and chimney deterioration;

- (2) The inspector shall also report the following:
 - (a) The methods used to observe the roofing;
 - (b) The apparent life of the roof covering;
 - (c) Missing shingles, hail, and wind damage;
 - (d) Loose or missing flashing and/or drip edging;
 - (e) Leaking gutters, missing downspouts, splash blocks, and down spout extensions; and
 - (f) Those sections of the roof not visible from the ground.

20:74:06:09. Interior components for inspection -- Exclusions. A home inspector shall inspect interior components as follows:

- (1) The inspector shall observe and report on the general appearance and condition of the following:
 - (a) General interior:
 - (i) Walls, ceilings, and floors;
 - (ii) Doors, to include the operation of doors, missing or malfunctioning hardware, and proper fit;
 - (iii) Windows, to include the operation of a representative number of windows, presence of double or single pane glass, evidence of leakage, visible entrapped moisture between seals on double pane windows, and broken window panes;
 - (iv) Skylights, to include the condition of skylight glass, presence of condensation or leakage stains, and the operation of the skylight, if possible;
 - (v) Stairways, to include the presence or absence of handrails;
 - (vi) Balconies, to include the presence and condition of guardrails;
 - (vii) Interior electrical/mechanical/heating, ventilation, and air conditioning systems;
 - (viii) A representative number of electrical outlets for proper connection and grounding;
 - (ix) All light switches;
 - (x) All ceiling fans;
 - (xi) Presence or absence of a heating source in each living area; and
 - (xii) Functional operation of the heating source;

- (b) Bathrooms:
 - (i) Functional flow for each water source, including hot water at each hot water source;
 - (ii) Functional drainage at each drain, the presence of an operating stop at each drain, and signs of leakage;
 - (iii) Presence or absence of a ventilation fan, the operation of the fan, and discharge to outside, if possible; and
 - (iv) Operating windows;
- (c) Laundry:
 - (i) Presence of a power source for a clothes dryer - gas or electric - and presence of a vent line; and
 - (ii) Presence of hot and cold water connections, presence of a drain, and presence of 110 volt power;
- (d) Kitchen:
 - (i) Permanently installed cabinets and countertops;
 - (ii) Stove/oven, to include the fuel type - electric, natural gas, or propane - and the operation of heating elements;
 - (iii) Ventilation fan and light - operation - exhaust to outside or recirculating;
 - (iv) Refrigerator - operation at time of inspection;
 - (v) Dishwasher - operation at time of inspection, verify functional flow and drainage;
 - (vi) Garbage disposal - verify functional operation;
 - (vii) Compactor - verify functional operation; and
 - (viii) Microwave (permanent) - verify presence;
- (e) Safety devices:
 - (i) Ground fault circuit interrupters -- breaker or outlet type, trip from test button, trip from external tester; and
 - (ii) Smoke detectors - hard wired or battery, test from test button on unit;

(2) The inspector is not required to:

- (a) Test minor functions of appliances;
- (b) Test minor appliances;
- (c) Operate every window;
- (d) Test every electrical outlet;
- (e) Observe paint, wallpaper, or other wall finish treatments;
- (f) Observe carpeting;
- (g) Observe draperies, blinds, or other window treatments;
- (h) Report on water filtering devices;
- (i) Evaluate shower pans for leakage;
- (j) Evaluate water softening or other conditioning systems;
- (k) Report on phone lines, cable lines, intercoms, alarms, or other low voltage signal systems;
- (l) Operate any plumbing or gas shut-off valves;
- (m) Report on condition of relay operated lights;

- (n) Determine adequacy of plumbing systems (including hot water capacity, pressure, and flow);
- (o) Test electrical timers;
- (p) Test Jacuzzi tubs or hot tubs; or
- (q) Test carbon monoxide detectors.

20:74:06:10. Electrical components for inspection -- Exclusions. A home inspector shall inspect electrical components as follows:

- (1) The inspector shall observe and report on the general appearance and condition of the following:
 - (a) Service entrance lines - whether underground or overhead and any obstructions;
 - (b) Meter/mast - properly secured to house;
 - (c) Main panel location, voltage/amperage rating;
 - (i) Service entry conductor material - copper or aluminum;
 - (ii) Disconnect/main breaker size - grounding line observed;
 - (iii) Branch circuit protection - breakers or fuses;
 - (iv) Presence of aluminum branch circuit wiring;
 - (v) Presence of multiple-tapped breakers/fuses;
 - (vi) Presence or melted insulation, signs of arcing or other signs of fire; or
 - (vii) Presence of mismatched wire/circuit protection;
 - (d) Location of any subpanel, voltage/amperage rating;
 - (i) Branch circuit protection - breakers/fuses;
 - (ii) Presence of aluminum branch circuit wiring;
 - (iii) Presence of multiple-tapped breakers/fuses;
 - (iv) Presence of melted insulation, signs of arcing or other signs of fire; or
 - (v) Presence of mismatched wire/circuit protection;
 - (e) Load management systems - note presence;
- (2) The inspector is not required to:
 - (a) Insert any tool, probe, or testing device inside the main panel or subpanels;
 - (b) Dismantle any electrical device other than the covers on main panels and subpanels;
 - (c) Activate or test components on branch circuits that are not energized;
 - (d) Remove outlet covers or switch plates; or
 - (e) Inspect low voltage systems.

20:74:06:11. Plumbing components for inspection -- Exclusions. A home inspector shall inspect plumbing components as follows:

- (1) The inspector shall observe and report on the general appearance and condition of the following:
 - (a) Material of incoming water supply - main valve location;

- (b) Interior water supply and distribution piping material;
- (c) Interior drain, waste, and vent system - drain, waste, and vent material;
- (d) Water heating system:
 - (i) Fuel type - electric, natural gas, or propane;
 - (ii) Flue and vent for gas system;
 - (iii) Capacity;
 - (iv) Age, if possible;
 - (v) Pressure/temperature relief valve with appropriate extension;
- (e) Water conditioning equipment; presence and location of:
 - (i) Water softening system;
 - (ii) Water filtering system;
- (f) Private well equipment; presence and location of:
 - (i) Cistern;
 - (ii) Wellhead;
 - (iii) Pump(s);
 - (iv) Pressure tank(s);
- (g) Sump pumps; presence:
 - (i) Automatic operation;
 - (ii) Operate from float valve;
 - (iii) Location of discharge, if possible;

(2) The inspector is not required to:

- (a) Observe or report on private waste disposal systems;
- (b) Observe the effectiveness of anti-siphon devices;
- (c) Determine whether water supply and waste disposal systems are public or private;
- (d) Operate automatic safety controls;
- (e) Operate shut off valves;
- (f) Observe sprinkler systems if winterized;
- (g) Evaluate effectiveness of conditioning systems;
- (h) Determine water quality or quantity;
- (i) Evaluate spas, except for flow and drainage; or
- (j) Evaluate well pumps or pressure tanks.

20:74:06:12. Central cooling components for inspection -- Exclusions. A home inspector shall inspect central cooling components as follows:

(1) The inspector shall observe and report on the following:

- (a) Type of unit (i.e., central air, heat pump, evaporative cooler);
- (b) Manufacturer (if visible);
- (c) Operation of the unit unless outside air temperature is less than 65 degrees Fahrenheit and verification of cooling of air;
- (d) Physical condition; and
- (e) Air flow within house;

(2) The inspector is not required to:

- (a) Test or evaluate wall or window mounted units;
- (b) Evaluate efficiency or adequacy of system;
- (c) Operate systems that are covered or otherwise shut down; or
- (d) Open panels other than those designed for routine homeowner maintenance.

20:74:06:13. Central heating components for inspection -- Exclusions. A home inspector shall inspect central heating components as follows:

(1) The inspector shall observe and report on the following:

- (a) Type of system (i.e., forced air, hot water baseboard, ceiling radiant, heat pump, etc.)
- (b) Fuel type (i.e., electric, natural gas, propane, oil, coal, wood, or other);
- (c) Manufacturer;
- (d) Estimated age (or age from data plate);
- (e) Functional operation from thermostat;
- (f) General condition of system;
- (g) Air flow at registers, if applicable - verify;
- (h) Positive pitch of flue pipes - verify;
- (i) General appearance of humidifiers;
- (j) Supplemental heat systems; and
- (k) Gas control valves and shutoff valves - check for leak;

(2) The inspector is not required to:

- (a) Verify or operate safety control devices;
- (b) Operate heat pumps if outside temperature is above 75 degrees Fahrenheit; or
- (c) Remove panels other than those designed to be removed for routine homeowner maintenance.

20:74:06:14. Stove and fireplace components for inspection -- Exclusions. A home inspector shall inspect stove and fireplace components as follows:

(1) The inspector shall observe and report on the following:

- (a) Fireplaces - fuel type, location, abnormal cracks or openings in visible portion of firebox, operation of damper, if accessible, existence of flue liner, type of venting for gas fireplace, presence and operation of blower;
- (b) Stoves - fuel types, location, distance from combustible surfaces/floor protection, connection to flue, existence of flue liner, operation of damper, if accessible, presence and operation of blower;

(2) The inspector is not required to:

- (a) Report on interior condition of liner;
- (b) Perform a smoke test;
- (c) Test blower if on a thermostat;
- (d) Operate gas appliances if gas is shut off;
- (e) Operate remote controls;
- (f) Determine adequacy of flue draft; or
- (g) Report on compliance with current regulatory codes.

20:74:06:15. Ventilation and insulation components for inspection -- Exclusions. A home inspector shall inspect ventilation and insulation components as follows:

- (1) The inspector shall observe and report on the following:
 - (a) Insulation - presence in attic and crawlspace, insulation material, thickness of insulation and approximate R-value, unusual conditions (dampness, etc.);
 - (b) Ventilation - presence or absence in attic or crawlspace, presence of attic fan, presence and operation of whole house fan, presence and operation of bathroom ventilation fan, presence and operation of kitchen ventilation fan;
- (2) The inspector is not required to:
 - (a) Perform an energy audit;
 - (b) Report on insulation and/or ventilation in concealed places; or
 - (c) Report on ventilation that is internal to other household devices.