rrc staff OPINION

*Please Note: This communication is either 1) only the recommendation of an RRC staff attorney as to action that the attorney believes the Commission should take on the cited rule at its next meeting, or 2) an opinion of that attorney as to some matter concerning that rule. The agency and members of the public are invited to submit their own comments and recommendations (according to RRC rules) to the Commission.*

AGENCY: HOME INSPECTOR LICENSURE BOARD

RULE CITATION: 11 NCAC 08 .1006

RECOMMENDED ACTION:

Approve, but note staff’s comment

X Object, based on:

X Lack of statutory authority

X Unclear or ambiguous

Unnecessary

Failure to comply with the APA

Extend the period of review

COMMENT:

G.S. 143-151.51(b)(2)(c) requires the Board to establish coverage parameters for errors and omissions insurance if used to meet licensure requirements. Apparently the Board has not done so and has thus not complied with the statute. It is therefore not clear what the coverage parameters are.

Robert A. Bryan, Jr.

Commission Counsel

§ 143-151.49. (Effective October 1, 2011) Powers and responsibilities of Board.

(a)        General. – The Board has the power to do all of the following:

(1)        Examine and determine the qualifications and fitness of applicants for a new or renewed license.

(2)        Adopt and publish a code of ethics and standard of practice for persons licensed under this Article.

(3)        Issue, renew, deny, revoke, and suspend licenses under this Article.

(4)        Conduct investigations, subpoena individuals and records, and do all other things necessary and proper to discipline persons licensed under this Article and to enforce this Article.

(5)        Employ professional, clerical, investigative, or special personnel necessary to carry out the provisions of this Article.

(6)        Purchase or rent office space, equipment, and supplies necessary to carry out the provisions of this Article.

(7)        Adopt a seal by which it shall authenticate its proceedings, official records, and licenses.

(8)        Conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.

(9)        Establish fees as allowed by this Article.

(10)      Publish and make available upon request the licensure standards prescribed under this Article and all rules adopted by the Board.

(11)      Request and receive the assistance of State educational institutions or other State agencies.

(11a)    Establish education requirements for licensure.

(12)      Establish continuing education requirements for persons licensed under this Article.

(13)      Adopt rules necessary to implement this Article.

(b)        Education Requirements. – The education program adopted by the Board may not consist of more than 200 hours of instruction. The instruction may include field training, classroom instruction, distance learning, peer review, and any other educational format approved by the Board. (1993 (Reg. Sess., 1994), c. 724, s. 1; 2009-509, s. 2.1.)

§ 143-151.51. (Effective October 1, 2011) Requirements to be licensed as a home inspector.

(a)        Licensure Eligibility. – To be eligible to be licensed as a home inspector, an applicant must do all of the following:

(1)        Submit a completed application to the Board upon a form provided by the Board.

(2)        Pass a licensing examination prescribed by the Board.

(3)        Repealed by Session Laws 2009-509, s. 2.2, effective October 1, 2011.

(4)        Pay the applicable fees.

(5)        Meet one of the following three conditions:

a.         Have a high school diploma or its equivalent and satisfactorily complete an education program approved by the Board. The program must be completed within three years of the date the applicant submits an application for licensure under this section.

b.         Have education and experience the Board considers to be equivalent to that required by sub-subdivision a. of this subdivision.

c.         Be licensed for at least six months as a general contractor under Article 1 of Chapter 87 of the General Statutes, as an architect under Chapter 83A of the General Statutes, or as a professional engineer under Chapter 89C of the General Statutes. A person qualifying under this sub-subdivision on or after October 1, 2011, must remain in good standing with the person's respective licensing board.

(b)        License. – Upon compliance with the conditions of licensure under subsection (a) of this section, to be eligible to be licensed as a home inspector, an applicant must meet all of the insurance requirements of this subsection.

(1)        General liability insurance in the amount of two hundred fifty thousand dollars ($250,000), which insurance may be individual coverage or coverage under an employer policy, with coverage parameters established by the Board.

(2)        One of the following:

a.         Minimum net assets in an amount determined by the Board, which amount may not be less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

b.         A bond in an amount determined by the Board, which amount may not be less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

c.         Errors and omissions insurance in the amount of two hundred fifty thousand dollars ($250,000), which insurance may be individual coverage or coverage under an employer policy, with coverage parameters established by the Board. (1993 (Reg. Sess., 1994), c. 724, s. 1; 2009-509, s. 2.2.)