



STATE OF WASHINGTON
DEPARTMENT OF LICENSING
PO Box 9020, Olympia, Washington 9850-9020

Washington Administrative Code
Notice of Permanent Rules for
Home Inspector

Adoption of: WAC 308-408C-020, Ethics – Statement of purpose

Effective date: These rule changes will become effective 31 days after filing or on July 7, 2018.

What are the agency’s reasons for adopting this rule?

The adoption removes any contradictory language and clarifies written disclosure to ensure consumer protection and the consumer’s right to freely pick a home inspector. The proposal also balances between prohibiting the industry to develop an environment that allows compensation or reward for referrals or inclusion on a preferred list, while removing language that regulates a licensee’s marketing, advertising, or promotional activities.

Summary of all public comments received on this rule proposal and the agency’s response to those comments:

Scott Harris submitted written comments via email dated March 28, 2018, sharing that the changes seem like a good idea. However, Mr. Harris identified concerns with the following language: “Written disclosure is required prior to the client’s signing of the preinspection agreement.” This requirement as a sole means of compliance isn’t workable and creates inherent problems in the field. Most of the time, clients sign the preinspection agreement when the appointment is scheduled, not on site. The problem arises when on site, a conflict relationship shows up. When this happens, I have disclosed to the client what this is and allow them the choice to proceed or not. I would propose an addendum to this rule that would allow the inspector to document any unforeseen relationship conflicts during (or even after the inspection) offering the client the opportunity to proceed with the inspection or release them from any obligation to proceed.

Response: The department duly notes this suggested change for future consideration with the Home Inspector Licensing Advisory Board and thanks you for your support and participation in this rulemaking process.

Craig Armstrong submitted written comments via email dated March 28, 2018, sharing that the rule proposal was a great start to rectifying the problem of realtors having too much power in the selection of the home inspector.

Response: Thank you for your support and participation in this rulemaking process.

Tom Brick called the department and submitted written comments via email dated March 28, 2018, thanking the department for listening to his input. Mr. Brick shared his support for the proposed changes and encourages the department to talk with the Real Estate Commission regarding the activity of “pay to play” and home inspectors paying for items to support real estate offices and associations.

Response: Thank you for your support and participation in this rulemaking process.

Greg Madsen, representing Surelock Homes Inspection Co., provided public testimony opposed to the rule change. Mr. Madsen expressed concerns regarding WAC 308-408C-020(9) stating that he was afraid the language opened itself up to self-interpretation, allowing real estate agencies to charge to be on their referral list. This would create referral lists based on willingness to pay versus the fact that a home inspector has the experience, proper background check, or necessary requirements to be on that list as is currently today. He indicated that he had already been contacted by two large real estate agencies concerning his willingness to pay to be on their referral list.

Response: Current real estate licensing rules require real estate firms to have written policies and procedures for referring a home inspector to buyers or sellers (WAC 308-124C-125). These policies and additional disclosure requirements are intended to prevent collusion between home inspectors and real estate licensees thereby ensuring the consumer's right to freely pick the home inspector of the consumer's choice. The act of referring and/or advertising a home inspection service does not violate the real estate or home inspection licensing laws, nor does paying to be on a referral list create a conflict of interest or violate the Uniform Regulation of Business and Professions Act.

It is the department's position that 1) any individual who has successfully met the state's licensing requirements is qualified to conduct a home inspection and 2) methods of marketing or advertising should be the decision of the home inspector licensee. However, the department understands this issue is a question and concern within the industry and will continue to provide clarity as appropriate. Thank you for your participation in this rulemaking process.

Charles Buell, representing self, provided public testimony in support of the proposed rule. However, Mr. Buell offered a suggestion to add additional language (underlined) to WAC 308-408C-020(9) to read "Not offer an inducement to any individual or entity other than the client by providing compensation or reward in exchange for performing an inspection.

Response: The department duly notes this suggested change for future consideration with the Home Inspector Licensing Advisory Board and thanks you for your support and participation in this rulemaking process.

Changes made to the proposed WAC as a result of public comment:

There are no differences between the text of the proposed rule as published in the register and the text of the rule as adopted.

The Administrative Procedure Act (RCW 34.05.325(6)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rulemaking.

The Department of Licensing appreciates your involvement in this rulemaking process. If you have any questions, please contact Damon Monroe, Agency Rules Coordinator, at (360) 902-3843 or email dmonroe@dol.wa.gov.