

Mckinney's Consolidated Laws of New York Annotated [Currentness](#)

Real Property Law ([Refs & Annos](#))

Chapter 50. Of the Consolidated Laws

→ [Article 12-B. Home Inspection Professional Licensing \(Refs & Annos\)](#)

→ [\[§§ 443, 444. Repealed by L.1987, c. 772, § 1, eff. Aug. 7, 1987\]](#)

[\[§§ 443, 444. Repealed by L.1987, c. 772, § 1, eff. Aug. 7, 1987\]](#)

[§ 444-a. Short title](#)

This article shall be known and may be cited as the “home inspection professional licensing act”.

[§ 444-b. Definitions](#)

As used in this article, the following terms shall have the following meanings:

1. “Council” means the state home inspection council established pursuant to the provisions of [section four hundred forty-four-c](#) of this article.
2. “Client” means any person who engages or seeks to engage the services of a home inspector for the purpose of obtaining inspection of and written report about the condition of a residential building.
3. “Department” means the department of state.
4. “Home inspector” means a person licensed as a home inspector pursuant to the provisions of this article.
5. “Home inspection” means the process by which a home inspector observes and provides a written report of the systems and components of a residential building including but not limited to heating system, cooling system, plumbing system, electrical system, structural components, foundation, roof, masonry structure, exterior and interior components or any other related residential building component as recommended by the home inspection council and implemented by the department through regulation to provide a client with objective information about the condition of the residential building. The home inspector shall clearly identify in the written report which systems and components of the residential building were observed. A home inspection shall not include an inspection for radon or pests.

6. "Person" means an individual, firm, company, partnership, limited liability company, or corporation.
7. "Residential building" means a structure consisting of one to four dwelling units and their garages and carport but shall not include any such structure newly constructed or not previously occupied as a dwelling unit.
8. "Secretary" means the secretary of the department of state.

§ 444-c. State home inspection council

1. There is hereby established a state home inspection council within the department. The council shall consist of the secretary or the secretary's designee and six additional members who are residents of the state, of whom three shall be persons licensed and actively engaged in the business of home inspection in the state of New York for at least five years immediately preceding their appointment and three of whom shall be consumers who are the owners and principal residents of a residential building in the state of New York. Appointments shall reflect the geographical diversity of the state.
2. For a period of one year after the effective date of this section, and notwithstanding any other provisions of this section to the contrary, the first three home inspectors appointed as members of the committee shall not be required, at the time of their first appointment, to be licensed to practice home inspection, provided that such members be licensed pursuant to this article within one year of appointment.
3. The governor shall appoint each member of the council for a term of three years except that of the members first appointed, two shall serve for terms of three years, two shall serve for terms of two years and two shall serve for a term of one year. The governor shall appoint one home inspector and one consumer solely in his or her discretion, one home inspector and one consumer upon the recommendation of the temporary president of the senate, and one home inspector and one consumer upon the recommendation of the speaker of the assembly. Each member shall hold office until his or her successor has been qualified. Any vacancy in the membership of the council shall be filled for the unexpired term in the manner provided for the original appointment. No member of the council may serve more than two successive terms in addition to any unexpired term to which he or she has been appointed.
4. Members of the council shall receive no compensation but shall be reimbursed for their actual and necessary expenses and provided with office and meeting facilities and personnel required for the proper conduct of the council's business.
5. The council shall annually elect from among its members a chair and vice-chair and may appoint a secretary, who need not be a member of the council. The council shall meet at least twice a year and may hold additional meetings as necessary to discharge its duties.

6. The role of the council shall be advisory. The council shall advise the secretary in the administration and enforcement of the provisions of this article and recommend to the secretary regulations to implement the provisions of this article including but not limited to:

(a) standards for training including approval of the course of study and examination required for licensure of home inspectors;

(b) requirements and standards for continuing education of home inspectors;

(c) a code of ethics and standards of practice for licensed home inspectors consistent with the provisions of this article and sound ethical practices which code and standards shall be subject to public notice and comment prior to a council recommendation to the secretary. The standards of practice shall not require a reporting format or limit information which licensees are authorized to provide a client pursuant to this article; and

(d) development of information and educational materials about home inspection for distribution to clients.

Nothing in this section shall be deemed to supersede any established authority, duty and power established by local law, state law or regulation or otherwise granted to any agency, body or entity.

§ 444-h. Suspension and revocation of licenses

1. The secretary may refuse to grant or may suspend or revoke a home inspector license, and may impose a civil penalty not to exceed one thousand dollars per violation, upon proof to the satisfaction of the secretary that the holder thereof has:

(a) Violated the provisions of [subdivision four of section four hundred forty-four-g](#) of this article;

(b) Disclosed any information concerning the results of the home inspection without the approval of the client or the client's representatives;

(c) Accepted compensation from more than one interested party for the same service without the consent of all interested parties;

(d) Accepted commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with work for which the licensee is responsible;

(e) Failed to disclose promptly to a client information about any business interest of the licensee which may

reasonably affect the client in connection with the home inspection;

(f) Been convicted of a felony involving fraud, theft, perjury or bribery;

(g) Failed to pay a fine or restitution ordered by the secretary within a reasonable time; or

(h) Made a willfully false statement in the context of home inspection activities or an application for licensure pursuant to this article.

2. Whenever a license is revoked pursuant to this section, such license shall not be reinstated or reissued until after the expiration of a period of five years from the date of such revocation.

3. A violation of this article by a professional engineer or architect regulated by the state of New York shall be enforced by their respective state licensing boards.

§ 444-i. Denial of license; complaints; notice of hearing

The department shall, before making a final determination to deny an application for a license, revoke a license, suspend a license, issue a reprimand, or impose a civil penalty for violation of this article, notify the applicant or licensee in writing of the reasons for such proposed denial, revocation, suspension, reprimand, or imposition of a civil penalty and afford the applicant or licensee an opportunity to be heard in person or by counsel. Such notification shall be served personally or by certified mail or in any manner authorized by the civil practice law and rules for service of a summons. If a hearing is requested, such hearing shall be held at such time and place as the department shall prescribe and shall be conducted in accordance with the provisions of the state administrative procedure act. If the applicant or licensee fails to make a written request for a hearing within thirty days after receipt of such notification, then the notification shall become the final determination of the department. The department, acting by such officer or person in the department as the secretary may designate, shall have the power to subpoena and bring before the officer or person so designated any person in this state and administer an oath to and take testimony of any person or cause his or her deposition to be taken. A subpoena issued under this section shall be regulated by the civil practice law and rules. If, after such hearing, the license is denied, revoked, or suspended, a reprimand is issued, or a civil penalty is imposed, written notice of such determination shall be served upon the applicant or licensee personally or by certified mail or in any manner authorized by the civil practice law and rules for the service of a summons.

§ 444-j. Practice of architecture and professional engineering

A person regulated by the state of New York to engage in the practice of architecture when acting within the scope of that practice, a person licensed in the state of New York to practice professional engineering when

acting within the scope of that practice or a person who is employed as a code enforcement official by the state or a political subdivision thereof when acting within the scope of that government employment may perform home inspections without need of licensure pursuant to this article.

§ 444-k. Liability coverage

1. Every licensed home inspector who is engaged in home inspection shall secure, maintain, and file with the secretary proof of a certificate of liability coverage, which terms and conditions shall be determined by the secretary in consultation with the council.
2. Every proof of liability coverage required to be filed with the secretary shall provide that cancellation or nonrenewal of the policy shall not be effective unless and until at least ten days' notice of intention to cancel or nonrenew has been received in writing by the secretary.

§ 444-l. Duties of the secretary

The secretary shall, in consultation with the council, establish such rules and regulations as shall be necessary to implement the provisions of this article.

§ 444-m. Construction with other laws

Nothing in this article shall prevent any licensed engineer, registered architect or any other licensed or regulated profession or governmental employee from acting within the scope of his or her profession or employment.

§ 444-o. Violations and penalties for unlicensed activities

Any person subject to an administrative order issued by the secretary directing the cessation of any activity for which a license is required and/ or suspending or revoking a license previously issued who directly or indirectly engages in the business of home inspection, holds himself, herself, or itself out to the public as being able to engage in the business of home inspection without a license therefor, engages in the business of home inspection after having his or her license revoked or suspended, or without a license to engage in the business of home inspection, directly or indirectly employs, permits or authorizes an unlicensed person to engage in the business of home inspection shall be guilty of a misdemeanor and upon the first conviction thereof shall be sentenced to a fine of not more than one thousand dollars; upon a second or subsequent conviction thereof shall be sentenced to a fine of not less than one thousand dollars nor more than five thousand dollars. Each violation of this article shall be deemed a separate offense.

§ 444-p. Judicial review

The action of the secretary in suspending, revoking, or refusing to issue or renew a license, or imposing an order directing the cessation of unlicensed activity or imposing a fine or reprimand may be reviewed by the supreme court in the manner provided by article seventy-eight of the civil practice law and rules.

§ 444-n. Unlicensed activities

The secretary may issue an order requiring restitution and/or directing the cessation of any activity for which a license is required by this article upon a determination that a person has engaged in or followed the business or occupation of, or held himself, herself, or itself out as or acted as, temporarily or otherwise, a home inspector within this state without a valid license. The department shall, before making such determination and order, give such person notice as provided in [section four hundred forty-four-i](#) of this article and afford such person an opportunity to be heard in person or by counsel in reference thereto in an adjudicatory proceeding held pursuant to this article.

§ 444-q. Severability

In the event it is determined by a court of competent jurisdiction that any phrase, clause, part, subdivision, paragraph or section, or any of the provisions of this article, is unconstitutional or otherwise invalid or inoperative, such determination shall not affect the validity or effect of the remaining provisions of this article.

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