
Auditor's Summary

Sunrise Analysis: Regulation of Home Inspectors

Report No. 19-09



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Should Home Inspectors Be Regulated?

DURING THE 2018 LEGISLATIVE SESSION, concern that a number of residential home inspections are conducted by under-qualified inspectors led to the introduction of Senate Bill No. 2403, which proposed licensure and regulation for businesses and individuals that provide home inspection services in Hawai'i. To determine whether regulation is warranted under the criteria of the Hawai'i Regulatory Licensing Reform Act, Chapter 26H, Hawai'i Revised Statutes (HRS), the Legislature adopted Senate Concurrent Resolution No. 27, Senate Draft 1, which requested that the Auditor conduct a sunrise review of the proposed regulation.

As of November 2018, Hawai'i was one of 17 states that does not regulate its home inspection industry. According to the Hawai'i Association of Realtors, home inspections are conducted for the majority of residential real estate transactions, typically initiated by home buyers who want to know a property's condition before committing to what could be the single largest purchase of their life. Contracting the services of a qualified home inspector may be a home buyer's first line of defense.

In Report No. 19-09, *Sunrise Analysis: Regulation of Home Inspectors*, we evaluated whether the profession of home inspecting should require licensure and regulation by the State of Hawai'i. Our analysis compared



We found no evidence that regulation of home inspectors was reasonably necessary to protect consumers.

the regulation of home inspectors proposed in Senate Bill No. 2403 against criteria provided in the Hawai'i Regulatory Licensing Reform Act. The law states that regulation shall be undertaken only where reasonably necessary to protect the health, safety, and welfare of the consumer of services.

A home inspection is primarily an observation-based, non-invasive review of a residential property that culminates in a written report describing any identified defects. In our review, we found no documented complaints about home inspection businesses or individuals filed with state agencies such as the Office of Consumer Protection, or with non-government organizations like the Better Business Bureau. This lack of data hindered our ability to assess the safety of current industry practices; however, we found no evidence of abuse by home inspectors or that the work of a home inspector reasonably affects the health, safety, and welfare of a home buyer.

Further, we found that home inspectors' work is limited and not intended to assess whether a property complies with local building codes. When potential issues are identified, the homebuyer must often hire another qualified, licensed professional to provide services that go beyond a home inspection. Based on the limited scope of work that home inspectors perform, and an absence of reported complaints, we are unable to conclude that regulation of home inspectors is "reasonably necessary to protect the health, safety, or welfare of consumers," nor can we conclude that the health, safety, or welfare of consumers may be "jeopardized" by the nature of home inspection services.

Based on our assessment, we did not find evidence sufficient to meet the criteria under Section 26H-2, HRS, to require the regulation of home inspectors to protect the health, safety or welfare of consumers.

The threshold issue for determining if regulation is warranted is whether the regulation is reasonably necessary to protect "health, safety, or welfare."

Section 26H-2(1), HRS

Hawai'i Regulatory Licensing Reform Act

The Hawai'i Regulatory Licensing Reform Act requires the Auditor to analyze proposed regulatory measures that, if enacted, would subject unregulated professions and vocations to licensing or other regulatory controls. The policies that the Legislature adopted regarding regulation of professions and vocations are as follows:

The State may regulate professions and vocations only where reasonably necessary to protect the health, safety, or welfare of consumers, and not that of the regulated profession or vocation;

The State must regulate professions or vocations when the health, safety, or welfare of the consumer may be jeopardized by the nature of the service offered by the provider;

Evidence of abuses by providers of the service must be given great weight in determining whether regulation is desirable;

Regulation must be avoided if it will artificially increase the cost of goods and services to consumers, except in cases where this cost is exceeded by the potential danger to the consumer;

Regulation must not unreasonably restrict entry into professions and vocations by all qualified persons; and

Aggregate costs for regulation and licensure must not be less than the full costs of administering that program.