RECORD KEEPING REQUIREMENTS FOR OHIO HOME INSPECTOR LICENSEES

The Division recently received some questions about a licensee’s responsibility to maintain home inspection records. Below are answers addressing license law requirements for Ohio home inspectors. In addition to these requirements, licensees may want to consider speaking with an attorney, their professional liability insurance carrier and their accountant. After speaking with them, licensees may want to retain records from years prior to receiving an Ohio home inspector license or for a period longer than required by license law due to tax reasons, professional liability coverage or statute of limitations reasons. If a licensee is a member of a professional home inspector organization, he or she may want to review their policies as well.

Q. Where can I find recording keeping requirements for my Ohio home inspector license?
A. The record keeping law for home inspectors can be found in Ohio Revised Code Section 4764.11(B) - http://codes.ohio.gov/orc/4764.11v1

Q. Who does this requirement affect?
A. The record keeping requirement is the responsibility of each individual licensee. So, it is the licensee’s responsibility, not their employer, to ensure this requirement is satisfied.

Q. As a licensee, I am an employee for a large home inspection company. Do I need to maintain these records, or can they be maintained at my employer’s office?
A. The record keeping requirement is the responsibility of the licensee. The records may be maintained at the employer’s office. If this occurs, there are several things that must be taken into consideration, including but not limited to the following: the licensee must ensure any confidential information associated with the home inspection assignment is not accessible to unauthorized individuals; all required records are obtained and maintained; the licensee has access to the records; and the records are disposed of in a timely, proper manner. It is strongly recommended that the licensee and the employer have a signed, written agreement addressing these types of items along with a maintenance policy/access agreement for these records should the licensee leave this employer.

Again, the record keeping requirement is the licensee’s responsibility. If records are maintained at the place of employment, the licensee must have access to those records or obtain those records for proper retention and destruction.

Q. When does the requirement take effect for me?
A. The record-keeping requirement becomes effective upon a licensee when the home inspector license is issued. So, each individual licensee will want to look at when the license was originally issued to them.
For illustration purposes only: a license was issued by the Division to an individual on October 31, 2020. That licensee must maintain records for all home inspections occurring on or after October 31, 2020. If a home inspection was conducted on October 31, 2020 and the corresponding home inspection report was transmitted to the client on November 1, 2020, then the licensee must retain records for this report for at least five years from the date the report was transmitted to the client or in this hypothetical, November 1, 2025. So, for this hypothetical only, the license law requirement is not effective upon the licensee for inspections completed on October 30, 2020 or before. Again, each individual licensee will want to look at when the license was originally issued to them to determine when the license law record keeping requirement became effective upon them.

Q. Are there any exceptions to license law record keeping requirements?

A. As mentioned previously, the general rule is licensees are required to maintain records for a five-year retention period from the date the report was transmitted to the client, but the law provides for an exception. If prior to the expiration of the retention period, a licensee is notified that their services or report is involved in a pending investigation or litigation, the five-year retention period begins on the date of final disposition of the litigation.

For illustration purposes only: let’s continue with the example in the previous question. The home inspection was conducted on October 31, 2020 and the home inspection report was transmitted to the client on November 1, 2020. The five-year license law record requirement would expire on November 1, 2025. However, the licensee receives notice from the Division on October 1, 2021 that they are subject to a complaint filed with the Division by the buyer of a property they inspected. The investigation ensues and the matter is closed by the Division with a finding no violation occurred on June 12, 2022. In this hypothetical, the licensee’s five-year license law record keeping requirement would begin to run on June 12, 2022 and would expire on June 12, 2027.

Q. What types of records am I required to maintain?

A. The original or a true copy of each written contract for the licensee’s services relating to home inspection work, all home inspection reports, and all work file documentation and data assembled in preparing those reports.

Q. How can I store these records? Do I have to keep them in paper form?

A. You must be able to produce these records during the required timeframe if requested by the Division/Board. Otherwise, your license could be subject to disciplinary action. These records may be stored in paper or electronic form.

Q. Why do we have to keep these records?

A. The straight-forward answer is it is a requirement established by the Ohio Legislature. So, licensees must do it. However, these records also demonstrate a licensee’s compliance with other license law requirements and lend support or credibility to their home inspection services. As a result, these records can be very useful to a licensee for any future action and can contribute to consumer confidence for home inspection services.
Q. Can I purge my records related to a home inspection if requested by my client or employer?
A. No. Your obligation required by license law cannot be waived by your client or employer.

Q. When it is appropriate, how do I purge my records?
A. While license law does not dictate how licensees purge their records, licensees must take steps to dispose of records that does not allow for the unintentional release of any confidential information.