

RULE §535.227

Standards of Practice: General Provisions

(a) Definitions.

- (1) Accessible--In the reasonable judgment of the inspector, capable of being approached, entered, or viewed without:
 - (A) undue hazard to the inspector;
 - (B) moving furnishings or large, heavy, or fragile objects;
 - (C) using specialized tools or procedures;
 - (D) disassembling items other than covers or panels intended to be removed for inspection;
 - (E) damaging property; or
 - (F) using a ladder for portions of the inspection other than the roof or attic space.
- (2) Chapter 1102--Texas Occupations Code, Chapter 1102.
- (3) Cosmetic--Related only to appearance or aesthetics, and not related to structural performance, operability, or water penetration.
- (4) Deficiency--A condition that, in the inspector's reasonable opinion, adversely and materially affects the performance of a system or component or constitutes a hazard to life, limb, or property as specified by these standards of practice. General deficiencies include but are not limited to inoperability, material distress, water penetration, damage, deterioration, missing parts, and unsuitable installation.
- (5) Deficient--Reported as having one or more deficiencies.
- (6) Inspect--To look at and examine accessible items, parts, systems, or components and report observed deficiencies.
- (7) Performance--Achievement of an operation, function, or configuration consistent with accepted industry practice.
- (8) Report--To provide the inspector's opinions and findings on the standard inspection report form.
- (9) Specialized tools--Tools such as thermal imaging equipment, moisture meters, gas leak detection equipment, environmental testing equipment and devices, elevation determination devices, and ladders capable of reaching surfaces over one story above ground surfaces.
- (10) Specialized procedures--Procedures such as environmental testing, elevation measurement, and any method employing destructive testing that damages otherwise sound materials or finishes.
- (11) Standards of practice--§§535.227 - 535.233 of this title.

(b) Scope.

- (1) These standards of practice define the minimum levels of inspection required for substantially completed residential improvements to real property up to four dwelling units. A real estate inspection is a limited visual survey and basic operation of the systems and components of a building using normal controls and does not require the use of specialized tools or procedures. The purpose of the inspection is to provide the client with information regarding the general condition of the residence at the time of inspection. The inspector may provide a higher level of inspection performance than required by these standards of practice and may inspect parts, components, and systems in addition to those described by the standards of practice.

- (2) General Requirements. The inspector shall:
- (A) operate fixed or installed equipment and appliances listed herein in at least one mode with ordinary controls at typical settings;
 - (B) visually inspect accessible systems or components from near proximity to the systems and components, and from the interior of the attic and crawl spaces; and
 - (C) complete the standard inspection report form as required by §535.222 and §535.223 of this title.
- (3) General limitations. The inspector is not required to:
- (A) inspect:
 - (i) items other than those listed herein;
 - (ii) elevators;
 - (iii) detached structures, decks, docks, fences, or waterfront structures or equipment;
 - (iv) anything buried, hidden, latent, or concealed; or
 - (v) automated or programmable control systems, automatic shut-off, photoelectric sensors, timers, clocks, metering devices, signal lights, lightning arrestor system, remote controls, security or data distribution systems, or solar panels;
 - (B) report:
 - (i) past repairs that appear to be effective and workmanlike;
 - (ii) cosmetic or aesthetic conditions; or
 - (iii) wear and tear from ordinary use;
 - (C) determine:
 - (i) insurability, warrantability, suitability, adequacy, capacity, reliability, marketability, operating costs, recalls, counterfeit products, life expectancy, age, energy efficiency, vapor barriers, thermostatic operation, code compliance, utility sources, or manufacturer or regulatory requirements except as specifically required by these standards;
 - (ii) the presence or absence of pests, termites, or other wood-destroying insects or organisms;
 - (iii) the presence, absence, or risk of asbestos, lead-based paint, mold, mildew, or any other environmental hazard, environmental pathogen, carcinogen, toxin, mycotoxin, pollutant, fungal presence or activity, or poison; or
 - (iv) types of wood or preservative treatment and fastener compatibility;
 - (D) anticipate future events or conditions, including but not limited to:
 - (i) decay, deterioration, or damage that may occur after the inspection;
 - (ii) deficiencies from abuse, misuse or lack of use,
 - (iii) changes in performance of any part, component, or system due to changes in use or occupancy;
 - (iv) the consequences of the inspection or its effects on current or future buyers and sellers;
 - (v) common household accidents, personal injury, or death;
 - (vi) the presence of water penetration(s); or
 - (vii) future performance of any item;

- (E) operate shut-off, safety, stop, pressure, or pressure-regulating valves or items requiring the use of codes, keys, combinations, or similar devices;
 - (F) designate conditions as safe;
 - (G) recommend or provide engineering, architectural, appraisal, mitigation, physical surveying, realty, or other specialist services;
 - (H) review historical records, installation instructions, repair plans, cost estimates, disclosure documents, or other reports;
 - (I) verify sizing, efficiency, or adequacy of the ground surface drainage system;
 - (J) operate recirculation or sump pumps;
 - (K) remedy conditions preventing inspection of any item;
 - (L) apply open flame to operate any appliance;
 - (M) turn on decommissioned equipment, systems, or utility services; or
 - (N) provide repair cost estimates, recommendations, or re-inspection services.
- (4) In the event of a conflict between specific provisions and general provisions in the standards of practice, specific provisions shall take precedence.
- (5) Departure.
- (A) An inspector may depart from the standards of practice only if the requirements of subparagraph (B) of this paragraph are met, and:
 - (i) the inspector and client agree the item is not to be inspected;
 - (ii) the inspector is not qualified to inspect the item;
 - (iii) conditions beyond the control of the inspector reasonably prevent inspection of an item;
 - (iv) the item is a common element of a multi-family development and is not in physical contact with the unit being inspected, such as the foundation under another building or a part of the foundation under another unit in the same building;
 - (v) the inspector reasonably determines that conditions or materials are hazardous to the health or safety of the inspector; or
 - (vi) the inspector reasonably determines that actions of the inspector may cause damage to the property.
 - (B) If a part, component, or system required for inspection is not inspected, the inspector shall:
 - (i) advise the client at the earliest practical opportunity that the part, component, or system will not be inspected; and
 - (ii) make an appropriate notation on the inspection report form, clearly stating the reason the part, component, or system was not inspected.
 - (C) If the inspector routinely departs from inspection of a part, system, or component, the earliest practical opportunity for the notice required by this subsection is the first contact with the prospect and the inspector has reason to believe that the property being inspected has the part, system, or component the inspector routinely does not inspect.
- (c) Enforcement. Failure to comply with the standards of practice is grounds for disciplinary action as prescribed by Chapter 1102.

Source Note: The provisions of this §535.227 adopted to be effective February 1, 2009, 33 TexReg 9242