

Bill No. CS for SB 1064

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Sullivan moved the following amendment:

Senate Amendment (with title amendment)

On page 2, following line 31,

insert:

Section 3. Section 501.935, Florida Statutes, is created to read:

501.935 Home inspection services; qualifications and standards; exemptions; required disclosures prior to inspection; report on inspection results; prohibited acts; failure to comply; complaints.--

(1) INTENT.--The Legislature recognizes that the performance of a home inspection requires certain unique skills and that a home inspection should not be confused with an engineering analysis, the practice of engineering, the practice of architecture, an evaluation of compliance with construction codes, a code enforcement inspection, contracting as defined in chapter 489, or an appraisal as defined in chapter 475. Therefore, it is in the public interest to require the disclosure of information useful to assist

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1 consumers in choosing a qualified home inspector, to inform
2 them of the limitations of a home inspection, and to prohibit
3 actions that conflict with the best interests of a home
4 inspector's client.

5 (2) DEFINITIONS.--For the purposes of this section:

6 (a) "Conspicuous type" means type in capital letters
7 at least 2 points larger than the largest type, exclusive of
8 headings, on the page on which it appears and, in all cases,
9 at least 10-point type. Where conspicuous type is required, it
10 must be separated on all sides from other type and print.
11 Conspicuous type may not be used in a disclosure or contract
12 except where required by law.

13 (b) "Home" means any improved residential real
14 property that is a single-family dwelling, duplex, triplex,
15 quadruplex, condominium unit, or cooperative unit. "Home"
16 includes the structure, fixtures, appliances, and mechanical
17 systems, but does not include offsite amenities or common
18 areas of a condominium or cooperative.

19 (c) "Home inspector" means any person who provides or
20 offers to provide a home inspection for a fee or other
21 compensation.

22 (d) "Home inspection" means an examination, done for
23 compensation, of the mechanical and physical components of a
24 home through visual means and operation of normal user
25 controls, without necessarily the use of any mathematical or
26 engineering science. The inspection may include, but is not
27 limited to, examination of the readily visible portions of the
28 structural, electrical, heating, central air-conditioning,
29 roofing, plumbing, insulation and ventilation, and cladding
30 systems, doors and windows, interior surfaces, and chimneys
31 and fireplaces.

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1 (3) HOME INSPECTION SERVICES; STANDARDS OF PRACTICE.--

2 (a) The Department of Agriculture and Consumer
3 Services shall adopt, by incorporation, one or more nationally
4 recognized minimum standards of practice for home inspection
5 services.

6 (b) The department shall adopt, by incorporation, one
7 or more nationally recognized minimum standards of practice
8 for home inspector to claim to be a "certified home
9 inspector." Any such standard shall require that a home
10 inspector have experience requirements and have successfully
11 passed an examination regarding home inspections.

12 (c) In adopting the rules required by this subsection,
13 the department is not to promulgate specific rules setting
14 forth standards, but to simply adopt by incorporation
15 standards developed by nationally recognized organizations.
16 In adopting the rules required by this subsection, the
17 department shall consult with representatives of the Florida
18 home inspection industry, the Florida Building Code
19 Administrators and Inspectors Board, the Construction Industry
20 Licensing Board, and the Electrical Contractors' Licensing
21 Board.

22 (d) The purpose and intent to this legislation is not
23 to create or impose a bureau or other agency of state
24 government to regulate the affairs of home inspectors.
25 Accordingly, the Department of Agriculture and Consumer
26 Services shall not license a home inspector, collect fees from
27 a home inspector for licensure, or file an administrative
28 complaint against a home inspector for violation of this
29 section or for violation of administrative code and rules
30 promulgated pursuant to this section.

31 (4) EXEMPTIONS.--The following persons are not

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1 required to comply with this section with regard to any
2 valuation condition, report, survey, evaluation, or estimate
3 rendered within the scope of practice authorized by such
4 license:

5 (a) A construction contractor licensed under chapter
6 489.

7 (b) An architect licensed under chapter 481.

8 (c) An engineer licensed under chapter 471.

9 (d) A building code administrator, plans examiner, or
10 building code inspector licensed under part XII of chapter
11 468.

12 (e) A certified real estate appraiser, licensed real
13 estate appraiser, or registered assistant real estate
14 appraiser licensed under part II of chapter 475.

15 (f) An inspector whose report is being provided to,
16 and is solely for the benefit of, the Federal Housing
17 Administration or the Veterans Administration.

18
19 These exemptions shall not apply to a person who holds himself
20 or herself out as a person providing home inspection services.

21 (5) DISCLOSURE.--Prior to entering into a contract for
22 home inspection and prior to performing any home inspection, a
23 home inspector must provide the following to any person, or
24 the person's representative, who will enter into a contract to
25 have a home inspection and who, as a client of the inspector,
26 has requested the inspection:

27 (a) A written list of the home inspector's
28 credentials.

29 (b) Whether the home inspector has had a professional
30 license, issued under part XII of chapter 468, chapter 471, or
31 chapter 481, suspended or revoked.

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1 (c) A caveat in conspicuous type that states:
2 "AN INSPECTION IS INTENDED TO ASSIST IN EVALUATION OF
3 THE OVERALL CONDITION OF A HOME. THE INSPECTION IS BASED ON
4 OBSERVATION OF THE VISIBLE AND APPARENT CONDITION OF THE
5 BUILDING AND ITS MECHANICAL AND PHYSICAL COMPONENTS ON THE
6 DATE OF THE INSPECTION. THE RESULTS OF THIS HOME INSPECTION
7 ARE NOT INTENDED TO MAKE ANY REPRESENTATION REGARDING LATENT
8 OR CONCEALED DEFECTS THAT MAY EXIST. IT SHOULD BE UNDERSTOOD
9 THAT A HOME INSPECTION IS A GENERAL OVERVIEW OF THE CONDITION
10 OF THE BUILDING AND COMPONENTS. THE HOME INSPECTOR IS NOT
11 NECESSARILY A PROFESSIONAL WITH LICENSES AUTHORIZING THE
12 RENDERING OF DETAILED OPINIONS REGARDING ANY OR ALL OF THE
13 ITEMS OR SYSTEMS INCLUDED IN THE INSPECTION. YOU MAY WISH TO
14 SEEK AN OPINION FROM AN APPROPRIATELY LICENSED PROFESSIONAL AS
15 TO ANY DEFECTS OR CONCERNS MENTIONED IN THE REPORT."

16 (d) A written disclosure to the client of any conflict
17 of interest or relationship of the home inspector which may
18 affect the client.

19 (e) A written statement or agreement declaring the
20 home inspector's scope of services, limitations, terms, and
21 conditions regarding the home inspection.

22 (6) REPORT.--A home inspector must provide to the
23 client, within 3 working days after the date of the home
24 inspection or at any other time agreed upon by both parties, a
25 written report of the results of the home inspection. The
26 relevant part of the report shall be provided by the buyer to
27 the owner of the home upon request if a home inspection report
28 is used by the buyer as a reason to void, modify, or refuse to
29 close on a contract for sale and purchase of the home.

30 (7) PROHIBITIONS.--A home inspector may not:

31 (a) Accept any commission, allowance, gift, or other

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1 thing of value from another party dealing with a client of the
2 inspector which relates to the inspection or conditions
3 reported by the home inspector.

4 (b) Offer any commission, allowance, gift, or other
5 thing of value to another party dealing with a client of the
6 inspector which relates to the inspection.

7 (c) Perform, or offer to perform, for a fee, remedial
8 work on a property which the inspector has inspected in the
9 preceding 12 months.

10 (d) Disclose, without the client's written consent, a
11 home inspection report to any person other than the client or
12 the client's representative.

13 (8) FAILURE TO COMPLY.--The failure of a home
14 inspector to comply with any provision of this section
15 constitutes a deceptive and unfair trade practice for which a
16 cause of action under part II of chapter 501 may be
17 prosecuted, in addition to any other remedy provided by law. A
18 court may enjoin any person who has substantially failed to
19 comply with this section from using the title "certified home
20 inspector" for a reasonable period of time and may require
21 such person to inform any potential client of the existence of
22 such injunction.

23 (9) COMPLAINTS.--Complaints concerning a home
24 inspector subject to the provisions of this section may be
25 referred to the Division of Consumer Services of the
26 Department of Agriculture and Consumer Services. The division
27 shall maintain records regarding complaints and shall compile
28 statistics regarding such complaints.

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30 (Redesignate subsequent sections.)
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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 1, line 6, following the semicolon

4

5 insert:

6 creating s. 501.935, F.S.; providing

7 requirements relating to home inspection

8 services; providing legislative intent;

9 providing definitions; requiring rulemaking by

10 the Department of Agriculture and Consumer

11 Services; providing exemptions; requiring,

12 prior to inspection, provision of inspector

13 credentials, a caveat, a disclosure of

14 conflicts of interest and certain

15 relationships, and a statement or agreement of

16 scope, limitations, terms, and conditions;

17 requiring a report to the client on the results

18 of the inspection and requiring provision of

19 relevant portions thereof to homeowners under

20 certain circumstances; prohibiting certain

21 acts, for which there are civil penalties;

22 providing that failure to comply is a deceptive

23 and unfair trade practice; providing for

24 injunction against use of the title "certified

25 home inspector" under certain circumstances and

26 requiring notice thereof to potential clients;

27 providing for the filing of complaints;

28 requiring maintenance of records regarding

29 complaints and compilation of statistics

30 regarding such complaints;

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