

By the Committee on Comprehensive Planning, Local and Military Affairs; and Senator Sullivan

316-1775-00

1 A bill to be entitled
 2 An act relating to home inspection services;
 3 creating s. 501.935, F.S.; providing
 4 requirements relating to home inspection
 5 services; providing legislative intent;
 6 providing definitions; providing certain
 7 inspector qualifications and practice
 8 standards; providing exemptions; requiring,
 9 prior to inspection, provision of inspector
 10 credentials, a caveat, a disclosure of
 11 conflicts of interest and certain
 12 relationships, and a statement or agreement of
 13 scope, limitations, terms, and conditions;
 14 requiring a report to the client on the results
 15 of the inspection and requiring provision of
 16 relevant portions thereof to homeowners under
 17 certain circumstances; prohibiting certain
 18 acts, for which there are civil penalties;
 19 providing that failure to comply is a deceptive
 20 and unfair trade practice; providing for
 21 injunction against use of the title
 22 "board-certified home inspector" under certain
 23 circumstances and requiring notice thereof to
 24 potential clients; providing for the filing of
 25 complaints; requiring maintenance of records
 26 regarding complaints and compilation of
 27 statistics regarding such complaints; providing
 28 an effective date.

30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 501.935, Florida Statutes, is
2 created to read:

3 501.935 Home inspection services; qualifications and
4 standards; exemptions; required disclosures prior to
5 inspection; report on inspection results; prohibited acts;
6 failure to comply; complaints.--

7 (1) INTENT.--The Legislature recognizes that the
8 performance of a home inspection requires certain unique
9 skills and that a home inspection should not be confused with
10 an engineering analysis, the practice of engineering, the
11 practice of architecture, an evaluation of compliance with
12 construction codes, a code enforcement inspection, contracting
13 as defined in chapter 489, or an appraisal as defined in
14 chapter 475. Therefore, it is in the public interest to
15 require the disclosure of information useful to assist
16 consumers in choosing a qualified home inspector, to inform
17 them of the limitations of a home inspection, and to prohibit
18 actions that conflict with the best interests of a home
19 inspector's client.

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

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

28 (b) "Home" means any improved residential real
29 property that is a single-family dwelling, duplex, triplex,
30 quadruplex, condominium unit, or cooperative unit. "Home"
31 includes the structure, fixtures, appliances, and mechanical

1 systems, but does not include offsite amenities or common
2 areas of a condominium or cooperative.

3 (c) "Home inspector" means any person who provides or
4 offers to provide a home inspection for a fee or other
5 compensation.

6 (d) "Home inspection" means an examination, done for
7 compensation, of the mechanical and physical components of a
8 home through visual means and operation of normal user
9 controls, without necessarily the use of any mathematical or
10 engineering science. The inspection may include, but is not
11 limited to, examination of the readily visible portions of the
12 structural, electrical, heating, central air-conditioning,
13 roofing, plumbing, insulation and ventilation, and cladding
14 systems, doors and windows, interior surfaces, and chimneys
15 and fireplaces.

16 (3) HOME INSPECTION SERVICES; QUALIFICATIONS;
17 STANDARDS.--

18 (a) No person shall offer home inspection services as
19 a board-certified home inspector, or represent himself or
20 herself as a board-certified home inspector, unless such
21 person has passed the National Home Inspector Examination,
22 offered by the Examination Board of Professional Home
23 Inspectors, or any other examination deemed to be
24 psychometrically valid by the Secretary of Business and
25 Professional Regulation.

26 (b) The minimum standard of practice for home
27 inspection shall be the version of the Standards of Practice
28 of the American Society of Home Inspectors effective January
29 1, 2000, or any other consensus-based home inspection standard
30 deemed equivalent by the Secretary of Business and
31 Professional Regulation.

1 (4) EXEMPTIONS.--The following persons are not
2 required to comply with this section with regard to any
3 valuation condition, report, survey, evaluation, or estimate
4 rendered within the scope of practice authorized by such
5 license:

6 (a) A construction contractor licensed under chapter
7 489.

8 (b) An architect licensed under chapter 481.

9 (c) An engineer licensed under chapter 471.

10 (d) A building code administrator, plans examiner, or
11 building code inspector licensed under part XII of chapter
12 468.

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

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

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

24 (a) A written list of the home inspector's
25 credentials, including whether or not the inspector is board
26 certified.

27 (b) A caveat in conspicuous type that states:

28 "AN INSPECTION IS INTENDED TO ASSIST IN EVALUATION OF
29 THE OVERALL CONDITION OF A HOME. THE INSPECTION IS BASED ON
30 OBSERVATION OF THE VISIBLE AND APPARENT CONDITION OF THE
31 BUILDING AND ITS MECHANICAL AND PHYSICAL COMPONENTS ON THE

1 DATE OF THE INSPECTION. THE RESULTS OF THIS HOME INSPECTION
2 ARE NOT INTENDED TO MAKE ANY REPRESENTATION REGARDING LATENT
3 OR CONCEALED DEFECTS THAT MAY EXIST, AND NO WARRANTY OR
4 GUARANTEE IS EXPRESSED OR IMPLIED. IT SHOULD BE UNDERSTOOD
5 THAT A HOME INSPECTION IS A GENERAL OVERVIEW OF THE CONDITION
6 OF THE BUILDING AND COMPONENTS. THE HOME INSPECTOR IS NOT
7 NECESSARILY A PROFESSIONAL WITH LICENSES AUTHORIZING THE
8 RENDERING OF DETAILED OPINIONS REGARDING ANY OR ALL OF THE
9 ITEMS OR SYSTEMS INCLUDED IN THE INSPECTION. YOU MAY WISH TO
10 SEEK AN OPINION FROM AN APPROPRIATELY LICENSED PROFESSIONAL AS
11 TO ANY DEFECTS OR CONCERNS MENTIONED IN THE REPORT."

12 (c) A written disclosure to the client of any conflict
13 of interest or relationship of the home inspector which may
14 affect the client.

15 (d) A written statement or agreement declaring the
16 home inspector's scope of services, limitations, terms, and
17 conditions regarding the home inspection.

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

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

27 (a) Accept any commission, allowance, gift, or other
28 thing of value from another party dealing with a client of the
29 inspector which relates to the inspection or conditions
30 reported by the home inspector.

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

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

7 (d) Disclose, without the client's written consent, a
8 home inspection report to any person other than the client.

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

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

25 Section 2. This act shall take effect July 1, 2000.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 1288
4 The CS makes the following changes to the bill:
5 exempts certified, licensed, and registered assistant real
6 estate appraisers from the requirements of the bill;
7 exempts inspectors whose report is provided for the benefit of
8 the Federal Housing Administration or Veteran's
9 Administration;
10 requires the inspector's report be provided to the home owner
11 in certain conditions;
12 clarifies the penalties for failure to comply with the act;
13 and
14 allows complaints to be registered with Division of Consumer
15 Services of the Department of Agriculture.
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