

**STORAGE NAME:** h0465s1a.gg

**DATE:** April 5, 2000

**HOUSE OF REPRESENTATIVES  
AS FURTHER REVISED BY THE COMMITTEE ON  
GENERAL GOVERNMENT APPROPRIATIONS  
ANALYSIS**

**BILL #:** CS/HB 465

**RELATING TO:** Home Inspection Services

**SPONSOR(S):** Committee on Real Property & Probate and Representative Turnbull and others

**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) BUSINESS REGULATION AND CONSUMER AFFAIRS YEAS 8 NAYS 0
  - (2) REAL PROPERTY & PROBATE YEAS 7 NAYS 0
  - (3) GOVERNMENTAL RULES & REGULATIONS YEAS 5 NAYS 2
  - (4) GENERAL GOVERNMENT APPROPRIATIONS YEAS 9 NAYS 0
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**I. SUMMARY:**

A home inspection is an examination of the mechanical and physical components of a residential structure. Home inspectors are currently unregulated. This bill regulates the conduct of a home inspector, but does not place home inspectors under the regulatory jurisdiction of any agency nor does it provide for examinations, licensure, or discipline.

This bill provides legislative intent regarding home inspection; defines terms; provides for use of the term "board-certified home inspector" by certain persons; provides a minimum standard of practice for all home inspectors; provides exemptions from regulation as a home inspector for certain persons; requires a home inspector to provide certain information to a potential client; requires a home inspector to provide a report within a set number of days after an inspection; requires a buyer of a home that uses the results of a home inspection to void, modify, or refuse to close on a contract for purchase and sale of a home to provide the seller with a copy of the relevant portions of the report upon request; prohibits certain activities by a home inspector; provides that failure to comply with the regulations created constitutes a deceptive and unfair trade practice, in addition to any other remedy provided by law; allows a court to enjoin a home inspector who has substantially violated the provisions regarding home inspectors from using the phrase "board-certified home inspector;" and provides that a complaint regarding the conduct of a home inspector is to be referred to the Division of Consumer Services of the Department of Agriculture and Consumer Services.

This bill does not appear to have any fiscal impact on local governments. The fiscal impact on state government is unknown, but is probably minimal.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |  |   |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Home inspectors are currently unregulated. This bill defines "home inspection," establishes criteria for use of the term "board-certified home inspector," requires a home inspector to disclose certain facts before entering into a contract and requires a caveat in the disclosure given to a potential client, requires a home inspector to provide a written report to the client within three days, prohibits certain activities, and creates a cause of action for violation of the section.

B. PRESENT SITUATION:

Home Inspection in General

Currently, home inspectors are not regulated. The American Society of Home Inspectors estimates that there are between 800 and 900 home inspectors statewide.<sup>1</sup>

A building inspection is often confused with a home inspection. A building inspection is a legally required act, performed by a local governmental entity for the purpose of determining whether a structure complies with the appropriate building code at the time of construction. By contrast, a home inspection is a discretionary endeavor, often contracted for after construction is complete. A home inspection is typically contracted for by a potential purchaser of a home, although home inspections are sometimes contracted for by the current owner of a home to determine its condition, by a homeowner about to sell a home that wishes to avoid potential problems, or by a purchaser of a new home that wants to ensure that the house was constructed properly. A home inspection is performed by private industry, rather than by local government.

The American Society of Home Inspectors and the National Home Inspector Examination

There are private voluntary organizations that home inspectors may join. Some of these organizations have promulgated standards of practice and certification examinations. The largest organization is the American Society of Home Inspectors (ASHI), with approximately

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<sup>1</sup> Telephone conference with Mark Cramer, of Indian Rocks, Florida, President of the American Society of Home Inspectors, January 25, 2000.

5,500 members nationwide, including 340 members statewide.<sup>2</sup> ASHI was formed in 1976 as a not-for-profit organization “to build public awareness of home inspection and to enhance the technical and professional performance of home inspectors. It is the oldest and most respected professional association of home inspectors in North America, representing its membership and the profession, as a whole, in areas of education, marketing, and communications.”<sup>3</sup>

The Examination Board of Professional Home Inspectors, an organization created by the American Society of Home Inspectors, developed the National Home Inspector Examination.<sup>4</sup> The National Home Inspector Examination is a four-hour multiple choice examination that tests the following areas: structural components, exterior, roofing, plumbing, heating, cooling, electrical, insulation and ventilation, interiors, fireplaces and solid fuel burning appliances, professional practice, good residential building construction practices, common building defects which can be visually detected, and good inspection and reporting principles.<sup>5</sup>

### The Florida Deceptive and Unfair Trade Practices Act

The Florida Deceptive and Unfair Trade Practices Act (Act) is included in Part II of Chapter 501, F.S. The intent of the Act is to “simplify, clarify, and modernize the law governing consumer protection, unfair methods of competition, and unconscionable, deceptive, and unfair trade practices . . . protect the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce . . . [and] to make state consumer protection and enforcement consistent with established policies of federal law relating to consumer protection.”<sup>6</sup>

The Act provides that “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful. . . . It is the intent of the Legislature that . . . due consideration and great weight must be given to the interpretations of the Federal Trade Commission and the federal courts relating to the Federal Trade Commission Act.”<sup>7</sup> This Act is sometimes referred to as the “Little FTC Act.”<sup>8</sup>

The Act gives primary enforcement authority to the “enforcing authority,” which is the state attorney for the circuit in which an unfair or deceptive practice occurred; or if the Attorney General if an unfair or deceptive practice occurred in two or more circuits, if the state

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<sup>2</sup> Id.

<sup>3</sup> <http://www.ashi.com/about.htm>

<sup>4</sup> National Home Inspector Examination Available; Valid, Reliable Exam for States Requiring Home Inspector Testing, by the Examination Board of Professional Home Inspectors, undated but received January 2000.

<sup>5</sup> <http://www.ashi.com/examFAQ.htm>

<sup>6</sup> Section 501.202, F.S.

<sup>7</sup> Section 501.204, F.S.

<sup>8</sup> See, for example, Marshall v. W & L Enterprises Corp., 360 So.2d 1147 (Fla. 1st DCA 1978).

attorney defers to the Attorney General, or the state attorney fails to act within 90 days of receipt of a complaint.<sup>9</sup>

An enforcing authority may bring an action for a declaratory judgment to declare that the practice violates the Act, an action for injunction, or an action on behalf of consumers to recover actual damages.<sup>10</sup> A willful violation of the Act may also subject the violator to a civil penalty of up to \$10,000 for each violation,<sup>11</sup> or \$15,000 if a victim was elderly or handicapped.<sup>12</sup>

A person may bring a private action for a declaratory judgment that a practice violates the Act, and may recover actual damages plus court costs and attorney's fees.<sup>13</sup>

#### Related Regulated Professions

Although home inspectors are not regulated by any statute or agency, several professions dealing with construction are regulated. Those regulated professions include construction contractors, architects, engineers, building code administrators, plans examiners, building code inspectors, and appraisers.

#### Division of Consumer Services of the Department of Agriculture and Consumer Services

The Division of Consumer Services of the Department of Agriculture and Consumer Services is charged with the responsibility of acting as a "clearinghouse for matters relating to consumer protection, consumer information, and consumer services generally."<sup>14</sup> If an agency regulates the subject matter of the complaint, the complaint is forwarded to the appropriate agency and monitored by the Division of Consumer Services.<sup>15</sup> If no agency regulates the subject matter of the complaint, the division "shall seek a settlement of the complaint using formal or informal methods of mediation and conciliation and may seek any other resolution of the matter in accordance with its jurisdiction."<sup>16</sup> The division is required to maintain records and compile summaries of and analyses of consumer complaints.<sup>17</sup> The division may conduct an investigation, subpoena witnesses and evidence, and administer oaths; may refer suspected violations of the Florida Deceptive and Unfair Trade

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<sup>9</sup> Section 501.203(2), F.S.

<sup>10</sup> Section 501.207, F.S.

<sup>11</sup> Section 501.2075, F.S.

<sup>12</sup> Section 501.2077, F.S.

<sup>13</sup> Section 501.211, F.S.

<sup>14</sup> Section 570.544(3), F.S.

<sup>15</sup> Sections 570.544(3) and 570.544(6), F.S.

<sup>16</sup> Section 570.544(3), F.S.

<sup>17</sup> Section 570.544(9), F.S.

Practices Act to an enforcing authority;<sup>18</sup> and may file for injunctive relief on behalf of the consumers of the state.<sup>19</sup>

**C. EFFECT OF PROPOSED CHANGES:**

This bill provides legislative intent regarding home inspection, and defines the terms "conspicuous type," "home," "home inspector," and "home inspection." It further provides that a home inspector may not represent himself or herself as a "board-certified home inspector" unless such person has passed the National Home Inspector Examination offered by the Examination Board of Professional Home Inspectors, or any other examination deemed to be psychometrically valid<sup>20</sup> by the Secretary of Business and Professional Regulation. Additionally, this bill makes the minimum standard of practice for all home inspectors the Standards of Practice of the American Society of Home Inspectors, or any other consensus-based home inspection standard deemed equivalent by the Secretary of Business and Professional Regulation.

This bill further provides that the following persons are exempt from the regulations provided by this bill with regard to any valuation condition, report, survey, evaluation, or estimate rendered within the scope of practice authorized by their license: a construction contractor,<sup>21</sup> an architect,<sup>22</sup> an engineer<sup>23</sup>, a building code administrator,<sup>24</sup> a plans

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<sup>18</sup> Section 570.544(10), F.S.

<sup>19</sup> Section 570.544(11), F.S.

<sup>20</sup> "Psychometrics" is the "psychological theory of or technique of mental measurement," Webster's New Collegiate Dictionary, 8th Edition.

<sup>21</sup> A construction contractor under chapter 489, F.S., is a person licensed through the Department of Business and Professional Regulation as a contractor. There are 17 classes or types of contractors that are regulated. In general, a contractor is "the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by other construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure . . ." Section 489.105(3), F.S.

<sup>22</sup> An architect is a person who performs architecture. Architecture is "the rendering or offering to render services in connection with the design and construction of a structure or group of structures which have as their principal purpose human habitation or use, and the utilization of space within and surrounding such structures. These services include planning, providing preliminary study designs, drawings and specifications, job-site inspection, and administration of construction contracts." Section 481.203(6), F.S.

<sup>23</sup> An engineer is person who engages in the practice of engineering. Engineering "means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, teaching of the principles and methods of engineering design, engineering surveys, and the inspection of construction for the purpose of determining in general if the work is proceeding in compliance with drawings and specifications, any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and includes such other professional services as may be necessary to the planning, progress, and completion of any engineering services." Section 471.005(6), F.S.

<sup>24</sup> A building code administrator is "any of those employees of municipal or county governments with building construction regulation responsibilities who are charged with the responsibility for direct regulatory administration or supervision of plan review, enforcement, or inspection of building construction, erection, repair, addition, remodeling, demolition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical,

examiner,<sup>25</sup> a building code inspector,<sup>26</sup> a certified real estate appraiser, a licensed real estate appraiser, a registered assistant real estate appraiser,<sup>27</sup> or an inspector whose report is being provided to, and is solely for the benefit of, the Federal Housing Administration or the Veteran's Administration.<sup>28</sup>

Prior to entering into a contract for home inspection and prior to performing any home inspection, a home inspector must provide the potential client with the home inspector's credentials, a statement as to whether or not the inspector is board certified, and a caveat in conspicuous type that states:

**AN INSPECTION IS INTENDED TO ASSIST IN EVALUATION OF THE OVERALL CONDITION OF A HOME. THE INSPECTION IS BASED ON OBSERVATION OF THE VISIBLE AND APPARENT CONDITION OF THE BUILDING AND ITS COMPONENTS ON THE DATE OF THE INSPECTION. THE RESULTS OF THIS HOME INSPECTION ARE NOT INTENDED TO MAKE ANY REPRESENTATION REGARDING LATENT OR CONCEALED DEFECTS THAT MAY EXIST, AND NO WARRANTY OR GUARANTEE IS EXPRESSED OR IMPLIED. IT SHOULD BE UNDERSTOOD THAT A HOME INSPECTION IS A GENERAL OVERVIEW OF THE CONDITION OF THE BUILDING AND COMPONENTS. THE HOME INSPECTOR IS NOT NECESSARILY A PROFESSIONAL WITH LICENSES AUTHORIZING THE RENDERING OF DETAILED OPINIONS REGARDING ANY OR ALL OF THE ITEMS OR SYSTEMS INCLUDED IN THE INSPECTION. YOU MAY WISH TO SEEK AN OPINION FROM AN APPROPRIATELY LICENSED PROFESSIONAL AS TO ANY DEFECTS OR CONCERNS MENTIONED IN THE REPORT.**<sup>29</sup>

Additionally, a home inspector must disclose any conflict of interest or relationship of the home inspector which may affect the client, and must provide a statement declaring the

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electrical, gas, fire prevention, energy, accessibility, and other construction codes as required by state law or municipal or county ordinance." Section 468.603(1), F.S.

<sup>25</sup> A plans examiner is "a person who is qualified to determine that plans submitted for purposes of obtaining building and other permits comply with the applicable building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other applicable construction codes." Section 468.603(7), F.S.

<sup>26</sup> A building code inspector or inspector is "any of those employees of local governments or state agencies with building construction regulation responsibilities who themselves conduct inspections of building construction, erection, repair, addition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes as required by state law or municipal or county ordinance." Section 468.603(2), F.S.

<sup>27</sup> The litany of "certified real estate appraiser," "licensed real estate appraiser," or "registered assistant real estate appraiser," is found at s. 475.612(1), F.S. An appraiser is any person who is a registered assistant real estate appraiser, licensed real estate appraiser, or a certified real estate appraiser. A certified general appraiser is a person who is certified by the department as qualified to issue appraisal reports for any type of real property. A certified residential appraiser is a person who is certified by the department as qualified to issue appraisal reports for residential real property of one to four residential units, without regard to transaction value or complexity, or real property as may be authorized by federal regulation. A licensed appraiser is a person who is licensed by the department as qualified to issue appraisal reports for residential real property of one to four residential units or on such real estate or real property as may be authorized by federal regulation. A registered assistant appraiser is a person who is registered with the department as qualified to perform appraisal services under the supervision of a licensed or certified appraiser. Section 475.611(1), F.S.

<sup>28</sup> The Federal Housing Administration (FHA) and the Veteran's Administration (VA) require homes to be built to certain architectural standards. Their regulations require certain homes to undergo a cursory examination of architecture and condition by a contract inspector before an FHA or VA loan is authorized.

<sup>29</sup> This paragraph is printed in boldface 10 point type, the minimum point size required by this bill provided the other text on the page is 8 point or smaller. The text of this analysis, excluding footnotes, is in 12 point type.

home inspector's scope of services, limitations, terms, and conditions regarding the home inspection.

Within three working days after the inspection, or at any other time agreed upon by both parties, a home inspector must provide to the client a written report of the results of the home inspection. A buyer that uses the results of a home inspection to void, modify, or refuse to close on a contract for purchase and sale of a home must provide the seller with copies of the relevant portions of the report upon request of the seller.

A home inspector may not accept any commission, allowance, gift, or other thing of value from another party dealing with a client of the inspector which relates to the inspection or conditions reported by the home inspector; offer any commission, allowance, gift, or other thing of value to another party dealing with a client of the inspector which relates to the inspection; perform or offer to perform, for a fee, remedial work on a property which the inspector has inspected in the preceding 12 months; or disclose, without the client's written consent, a home inspection report to any person other than the client.

This bill further provides that failure to comply with any of its provisions constitutes a deceptive and unfair trade practice, in addition to any other remedy provided by law. Additionally, a court may enjoin a home inspector who has substantially violated the provisions regarding home inspectors from using the phrase "board-certified home inspector," and may require such home inspector to disclose the existence of the injunction to potential clients.

This bill provides that a complaint regarding the conduct of a home inspector is to be referred to the Division of Consumer Services of the Department of Agriculture and Consumer Services.

**D. SECTION-BY-SECTION ANALYSIS:**

See "Present Situation" and "Effect of Proposed Changes"

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

None.

**2. Expenditures:**

The fiscal impact to state government is unknown, but is likely minimal. If an organization applies to the Department of Business and Professional Regulation to have that organization's standards approved as "equivalent" or that organization's examination approved as "psychometrically valid," the department would have to spend time to review the proposal.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

This bill will have a minimal direct economic impact on persons performing home inspections, as they will be required to draft disclosures and contracts to comply with the requirements of this bill.

**D. FISCAL COMMENTS:**

The committee substitute, unlike the original bill, requires that a complaint regarding a home inspector be referred to the Division of Consumer Services of the Department of Agriculture and Consumer Services. The agency has indicated there is no fiscal impact from this bill.

**IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:**

**A. APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate.

**C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

**V. COMMENTS:**

**A. CONSTITUTIONAL ISSUES:**

None.



**B. RULE-MAKING AUTHORITY:**

N/A

**C. OTHER COMMENTS:**

Comments by the Committee on Business Regulation and Consumer Affairs

There may be potential for confusion or the possibility of misleading the public by reserving the term "board certified home inspector." A "board" is usually an appointed governmental oversight body that, among other things, processes complaints and dispenses discipline on misbehaving or incompetent practitioners. In this case, the board (EBPHI) will be a private entity with no oversight or disciplinary powers. It is possible that the public could gain the mistaken impression that, by utilizing a "board certified home inspector," they have the protection of a board which would process complaints and dispense discipline.

It should also be noted that there appears to be no mechanism for removal of certification as a "board certified home inspector," once someone has gained that certification. Again, this is contrary to what the public has grown to expect from a professional possessing "board" certification or licensure.

In 1998, regulation of industrial hygienists and safety professionals was established in s. 501.937, F.S. That regulation was generally similar to this bill in that industrial hygienists and safety professionals were required to accurately disclose their credentials, certain titles were reserved for use by qualified individuals only, and failure to comply was made a deceptive and unfair trade practice. A spokesman for the industrial hygienists and safety professionals indicated that he is not aware of any subsequent enforcement actions by either the state attorneys or the Attorney General. However, he stated that he believes that the regulation nevertheless benefits the public because practitioners are obeying the law.

In practical terms, action under the Florida Deceptive and Unfair Trade Practice Act by the state attorney or the state Department of Legal Affairs is not likely unless the offender exhibits a widespread and continuing pattern of willful violations. It is likely that neither the state attorney nor the Attorney General would choose to act if the violations were few, or if the violator could claim the violations were unintentional.

Action under this law by an aggrieved party such as a home buyer, home seller, Realtor, or home builder could well be a viable option, but the initial expense of pursuing such a civil remedy would rest upon the aggrieved party. However, should the aggrieved party win, in addition to the actual damages, he or she could petition the court for award of court costs and attorneys fees.

Comments by the Committee on Real Property and Probate

This bill provides that a home inspector that wishes to utilize the term "board-certified" must pass the National Home Inspector Examination. This bill further provides that all home inspectors must comply with the Standards and Practices of the American Society of Home

Inspectors.<sup>30</sup> The Secretary of Business and Professional Regulation is allowed to certify other standards of practice if they are “consensus-based” and to approve other examinations if they are “psychometrically valid.” However, the American Society of Home Inspectors claims that it is the only organization that has established a “consensus-based” standard of practice for home inspectors, and that the National Home Inspector Examination created by its sister organization is the only “psychometrically valid” examination in use by any organization.<sup>31</sup>

There is a concern that this bill does not specifically address liability issues. A home inspector is allowed to form a business entity that shields the home inspector from personal liability, yet he or she is not required to obtain any form of liability insurance, and need not disclose to customers the lack of insurance.

The Florida Association of Realtors is in favor of this bill, but would prefer that home inspectors “be fully licensed and regulated.”<sup>32</sup>

#### Comments by the Committee on Governmental Rules & Regulations

Staff of the Department of Business & Professional Regulation has communicated that the Secretary does not want the responsibility of determining whether an examination is psychometrically valid, and views this duty as a first step toward regulation of the industry, which the department opposes.

#### VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Business Regulation and Consumer Affairs adopted four amendments on January 18, 2000:

Amendment #1 amends the statutory intent section of the bill, adding that a home inspection does not include an evaluation of compliance with construction codes.

Amendment #2 adds a definition of “home” as follows: “‘Home’ means any improved residential real property that is a single-family detached dwelling unit or a single-family dwelling unit and appurtenant common elements in a multifamily structure, or a multifamily structure of four units or fewer. Residential dwelling units or structures may include any townhouse, duplex, condominium, cooperative, or timeshare property meeting such unit restriction.”

Amendment #3 amends the list of persons exempt from the provisions of this bill by adding persons certified as a building code administrator, plans examiner, or inspector under part XII of Chapter 468, F.S.

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<sup>30</sup> There is a concern that by mentioning one of several organizations that a home inspector may join, this bill may encourage home inspectors to join that organization, possibly to the detriment of the other organizations.

<sup>31</sup> Telephone conference with Mark Cramer, of Indian Rocks, Florida, President of the American Society of Home Inspectors, January 25, 2000.

<sup>32</sup> Headlines, by the Florida Association of Realtors, January 24, 2000.

Amendment #4 clarifies that a violation of the provisions of this bill is a violation of part II of Chapter 501, F.S., the Florida Deceptive and Unfair Trade Practices Act, and is punishable by the penalties contained therein.

On February 7, 2000, the Committee on Real Property and Probate adopted one amendment to remove everything after the enacting clause. The amendment:

- Includes the substance of the four amendments adopted by the Committee on Business Regulation and Consumer Affairs,
- Adds a definition of “conspicuous type” and prohibits the use of conspicuous type outside of the required disclosure language,
- Clarifies the definition of “home” and provides that the home to be inspected does not include off-site amenities or common areas of a condominium or cooperative,<sup>33</sup>
- Adds to the list of persons exempt from the provisions of this bill a certified real estate appraiser, licensed real estate appraiser, and a registered assistant real estate appraiser,<sup>34</sup>
- Adds an exemption for inspectors employed by the Federal Housing Administration or the Veteran’s Administration,
- Clarifies that, while the bill permits an action to be filed under the Florida Deceptive and Unfair Trade Practices Act, that an action under that act is not the exclusive remedy of a person harmed by a home inspector, and
- Makes a number of grammatical changes.

Six amendments to the amendment were then adopted. Those amendments:

- Amend the definition of “conspicuous type” from a minimum of 10 point type to a type that is at least two points larger than other type on the page and in all cases at least 10 point type,
- Clarify the required disclosure by providing that a home inspector may not be able to provide detailed opinions about “any or all” of the items or systems in a home,
- Delete superfluous language in the definition of “home inspector” made unnecessary by the addition of the definition of “home”,
- Provide that a buyer that uses the results of a home inspection to void, modify, or refuse to close on a contract for purchase and sale of a home must provide the seller with copies of the relevant portions of the report upon request of the seller,

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<sup>33</sup> A literal reading of the definition of “home” in the amendment adopted by the Committee on Business Regulation and Consumer Affairs would have prohibited a home inspector from inspecting a condominium or cooperative if such condominium or cooperative was in a building of over four units.

<sup>34</sup> The intent language in the original bill stated an intent that appraisers be exempt from the provisions of this bill, but appraisers had not been listed in the list of exempt persons.

- Provide that, should a home inspector substantially fail to comply with the provisions regarding home inspectors, a court may enjoin the use of the phrase “board-certified” by that home inspector for a reasonable period of time, and that the court may further order the home inspector to inform a potential client of the injunction, and
- Provide that complaints about a home inspector are to be referred to the Division of Consumer Services of the Department of Agriculture and Consumer Services.<sup>35</sup>

This bill, as amended, was reported favorably as a committee substitute.

On April 5, 2000, the Committee on General Government Appropriations adopted one amendment which excludes certain persons from the exemptions listed in the bill.

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION AND CONSUMER AFFAIRS:

Prepared by:

Staff Director:

Gip Arthur

Rebecca R. Everhart

AS REVISED BY THE COMMITTEE ON REAL PROPERTY & PROBATE:

Prepared by:

Staff Director:

Nathan L. Bond, J.D.

J. Marleen Ahearn, Ph.D., J.D.

AS FURTHER REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES & REGULATIONS:

Prepared by:

Staff Director:

Shari Z. Whittier

David M. Greenbaum

AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Staff Director:

Juliette Noble

Cynthia P. Kelly

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<sup>35</sup> The amendment incorrectly refers to the Division of Consumer Services as the Division of Consumer Affairs.