

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; requiring rulemaking by  
7           the Department of Agriculture and Consumer  
8           Services; 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 "certified  
22          home inspector" under certain circumstances and  
23          requiring notice thereof to potential clients;  
24          providing for the filing of complaints;  
25          requiring maintenance of records regarding  
26          complaints and compilation of statistics  
27          regarding such complaints; providing an  
28          effective date.

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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; STANDARDS OF  
17 PRACTICE.--The minimum standards of practice for all home  
18 inspection services shall be developed and adopted by rule by  
19 the Department of Agriculture and Consumer Services. The  
20 minimum requirements for a home inspector to advertise as a  
21 "certified home inspector" shall also be developed and adopted  
22 by rule by the department, which rules may require the  
23 successful passage of an examination and experience  
24 requirements. In promulgating these rules, the department is  
25 directed to consult with representatives of the Florida home  
26 inspection industry, the Florida Building Code Administrators  
27 and Inspectors Board, the Construction Industry Licensing  
28 Board, and the Electrical Contractors' Licensing Board. The  
29 administrative rules required by this subsection are to be  
30 promulgated and adopted by July 1, 2001.

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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.

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

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

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

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

4           (c) A caveat in conspicuous type that states:

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

19           (d) A written disclosure to the client of any conflict  
20 of interest or relationship of the home inspector which may  
21 affect the client.

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

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

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

4 (a) Accept any commission, allowance, gift, or other  
5 thing of value from another party dealing with a client of the  
6 inspector which relates to the inspection or conditions  
7 reported by the home inspector.

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

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

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

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

27 (9) COMPLAINTS.--Complaints concerning a home  
28 inspector subject to the provisions of this section may be  
29 referred to the Division of Consumer Services of the  
30 Department of Agriculture and Consumer Services. The division

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1 shall maintain records regarding complaints and shall compile  
2 statistics regarding such complaints.

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