

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 PRACTICE.--

17 (a) The Department of Agriculture and Consumer
18 Services shall adopt, by incorporation, one or more nationally
19 recognized minimum standards of practice for home inspection
20 services.

21 (b) The department shall adopt, by incorporation, one
22 or more nationally recognized minimum standards of practice
23 for home inspector to claim to be a "certified home
24 inspector." Any such standard shall require that a home
25 inspector have experience requirements and have successfully
26 passed an examination regarding home inspections.

27 (c) In adopting the rules required by this subsection,
28 the department is not to promulgate specific rules setting
29 forth standards, but to simply adopt by incorporation
30 standards developed by nationally recognized organizations.
31 In adopting the rules required by this subsection, the

1 department shall consult with representatives of the Florida
2 home inspection industry, the Florida Building Code
3 Administrators and Inspectors Board, the Construction Industry
4 Licensing Board, and the Electrical Contractors' Licensing
5 Board.

6 (d) The purpose and intent to this legislation is not
7 to create or impose a bureau or other agency of state
8 government to regulate the affairs of home inspectors.
9 Accordingly, the Department of Agriculture and Consumer
10 Services shall not license a home inspector, collect fees from
11 a home inspector for licensure, or file an administrative
12 complaint against a home inspector for violation of this
13 section or for violation of administrative code and rules
14 promulgated pursuant to this section.

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

20 (a) A construction contractor licensed under chapter
21 489.

22 (b) An architect licensed under chapter 481.

23 (c) An engineer licensed under chapter 471.

24 (d) A building code administrator, plans examiner, or
25 building code inspector licensed under part XII of chapter
26 468.

27 (e) A certified real estate appraiser, licensed real
28 estate appraiser, or registered assistant real estate
29 appraiser licensed under part II of chapter 475.

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

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

7 (5) DISCLOSURE.--Prior to entering into a contract for
8 home inspection and prior to performing any home inspection, a
9 home inspector must provide the following to any person, or
10 the person's representative, who will enter into a contract to
11 have a home inspection and who, as a client of the inspector,
12 has requested the inspection:

13 (a) A written list of the home inspector's
14 credentials.

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

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

19 "AN INSPECTION IS INTENDED TO ASSIST IN EVALUATION OF
20 THE OVERALL CONDITION OF A HOME. THE INSPECTION IS BASED ON
21 OBSERVATION OF THE VISIBLE AND APPARENT CONDITION OF THE
22 BUILDING AND ITS MECHANICAL AND PHYSICAL COMPONENTS ON THE
23 DATE OF THE INSPECTION. THE RESULTS OF THIS HOME INSPECTION
24 ARE NOT INTENDED TO MAKE ANY REPRESENTATION REGARDING LATENT
25 OR CONCEALED DEFECTS THAT MAY EXIST. IT SHOULD BE UNDERSTOOD
26 THAT A HOME INSPECTION IS A GENERAL OVERVIEW OF THE CONDITION
27 OF THE BUILDING AND COMPONENTS. THE HOME INSPECTOR IS NOT
28 NECESSARILY A PROFESSIONAL WITH LICENSES AUTHORIZING THE
29 RENDERING OF DETAILED OPINIONS REGARDING ANY OR ALL OF THE
30 ITEMS OR SYSTEMS INCLUDED IN THE INSPECTION. YOU MAY WISH TO
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1 SEEK AN OPINION FROM AN APPROPRIATELY LICENSED PROFESSIONAL AS
2 TO ANY DEFECTS OR CONCERNS MENTIONED IN THE REPORT."

3 (d) A written disclosure to the client of any conflict
4 of interest or relationship of the home inspector which may
5 affect the client.

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

9 (6) REPORT.--A home inspector must provide to the
10 client, within 3 working days after the date of the home
11 inspection or at any other time agreed upon by both parties, a
12 written report of the results of the home inspection. The
13 relevant part of the report shall be provided by the buyer to
14 the owner of the home upon request if a home inspection report
15 is used by the buyer as a reason to void, modify, or refuse to
16 close on a contract for sale and purchase of the home.

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

18 (a) Accept any commission, allowance, gift, or other
19 thing of value from another party dealing with a client of the
20 inspector which relates to the inspection or conditions
21 reported by the home inspector.

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

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

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

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

11 (9) COMPLAINTS.--Complaints concerning a home
12 inspector subject to the provisions of this section may be
13 referred to the Division of Consumer Services of the
14 Department of Agriculture and Consumer Services. The division
15 shall maintain records regarding complaints and shall compile
16 statistics regarding such complaints.

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