

By Senator Sullivan

22-69-01

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           before 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 acts  
18          for which there are civil penalties; providing  
19          that failure to comply is a deceptive and  
20          unfair trade practice; providing for injunction  
21          against use of the title "board-certified home  
22          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. When 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 when 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. The term  
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, cladding  
14 systems, doors and windows, interior surfaces, and chimneys  
15 and fireplaces.

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

18 (a) A person may not 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 considered  
24 psychometrically valid by the Secretary of Business and  
25 Professional Regulation.

26 (b) The minimum standard of practice for home  
27 inspection is the version of the Standards of Practice of the  
28 American Society of Home Inspectors effective January 1, 2000,  
29 or any other consensus-based home inspection standard deemed  
30 equivalent by the Secretary of Business and Professional  
31 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.--Before entering into a contract for  
20 home inspection and before 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 offer 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 a 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 this chapter 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, 2001.

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SENATE SUMMARY

Provides requirements relating to home inspection services. Provides legislative intent and definitions. Prescribes inspector qualifications and practice standards for home inspectors representing themselves as board certified. Provides exemptions. Requires, before inspection, the disclosure of inspector credentials, a caveat, conflicts of interest and certain relationships, and a statement or agreement of scope, limitations, terms, and conditions. Requires a report on the results of the inspection. Prohibits certain acts, for which there are civil penalties. Provides that failure to comply is a deceptive and unfair trade practice and provides penalties. Provides for an injunction against use of the title "board-certified home inspector" under certain circumstances. Requires the Division of Consumer Services to maintain a record of complaints concerning home inspection services.