

By Representative Detert

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.