



HB 1131

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A bill to be entitled
 An act relating to home inspection services; creating s.
 501.935, F.S.; providing requirements relating to home
 inspection services; providing legislative intent;
 providing definitions; providing certain inspector
 qualifications and practice standards; providing
 exemptions; requiring, before inspection, provision of
 inspector credentials, a caveat, a disclosure of conflicts
 of interest and certain relationships, and a statement or
 agreement of scope, limitations, terms, and conditions;
 requiring a report to the client on the results of the
 inspection and requiring provision of relevant portions
 thereof to homeowners under certain circumstances;
 prohibiting certain acts for which there are civil
 penalties; providing that failure to comply is a deceptive
 and unfair trade practice; providing for injunction
 against use of the title "board-certified home inspector"
 under certain circumstances and requiring notice thereof
 to potential clients; providing for the filing of
 complaints; requiring maintenance of records regarding
 complaints and compilation of statistics regarding such
 complaints; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 501.935, Florida Statutes, is created
 to read:

501.935 Home inspection services; qualifications and
 standards; exemptions; required disclosures prior to inspection;



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30 report on inspection results; prohibited acts; failure to
31 comply; complaints.--

32 (1) INTENT.--The Legislature recognizes that the
33 performance of a home inspection requires certain unique skills
34 and that a home inspection should not be confused with an
35 engineering analysis, the practice of engineering, the practice
36 of architecture, an evaluation of compliance with construction
37 codes, a code enforcement inspection, contracting as defined in
38 chapter 489, or an appraisal as defined in chapter 475.
39 Therefore, it is in the public interest to require the
40 disclosure of information useful to assist consumers in choosing
41 a qualified home inspector, to inform them of the limitations of
42 a home inspection, and to prohibit actions that conflict with
43 the best interests of a home inspector's client.

44 (2) DEFINITIONS.--For the purposes of this section:

45 (a) "Conspicuous type" means type in capital letters at
46 least 2 points larger than the largest type, exclusive of
47 headings, on the page on which it appears and, in all cases, at
48 least 10-point type. When conspicuous type is required, it must
49 be separated on all sides from other type and print. Conspicuous
50 type may not be used in a disclosure or contract except when
51 required by law.

52 (b) "Home" means any improved residential real property
53 that is a single-family dwelling, duplex, triplex, quadruplex,
54 condominium unit, or cooperative unit. The term includes the
55 structure, fixtures, appliances, and mechanical systems, but
56 does not include offsite amenities or common areas of a
57 condominium or cooperative.



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58 (c) "Home inspector" means any person who provides or
59 offers to provide a home inspection for a fee or other
60 compensation.

61 (d) "Home inspection" means an examination, done for
62 compensation, of the mechanical and physical components of a
63 home through visual means and operation of normal user controls,
64 without necessarily the use of any mathematical or engineering
65 science. The inspection may include, but is not limited to,
66 examination of the readily visible portions of the structural,
67 electrical, heating, central air-conditioning, roofing,
68 plumbing, insulation and ventilation, cladding systems, doors
69 and windows, interior surfaces, and chimneys and fireplaces.

70 (3) HOME INSPECTION SERVICES; QUALIFICATIONS; STANDARDS.--

71 (a) A person may not offer home inspection services as a
72 board-certified home inspector, or represent himself or herself
73 as a board-certified home inspector, unless such person has
74 passed the National Home Inspector Examination offered by the
75 Examination Board of Professional Home Inspectors or any other
76 examination considered psychometrically valid by the Secretary
77 of Business and Professional Regulation.

78 (b) The minimum standard of practice for home inspection
79 is the version of the Standards of Practice of the American
80 Society of Home Inspectors effective January 1, 2000, or any
81 other consensus-based home inspection standard deemed equivalent
82 by the Secretary of Business and Professional Regulation.

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

87 (a) A construction contractor licensed under chapter 489.



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(b) An architect licensed under chapter 481.

(c) An engineer licensed under chapter 471.

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

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

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

(5) DISCLOSURE.--Before entering into a contract for home inspection and before performing any home inspection, a home inspector must provide the following to any person who will enter into a contract to have a home inspection and who, as a client of the inspector, has requested the inspection:

(a) A written list of the home inspector's credentials, including whether or not the inspector is board certified.

(b) 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 MECHANICAL AND PHYSICAL 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



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118 IN THE INSPECTION. YOU MAY WISH TO SEEK AN OPINION FROM AN
119 APPROPRIATELY LICENSED PROFESSIONAL AS TO ANY DEFECTS OR
120 CONCERNS MENTIONED IN THE REPORT."

121 (c) A written disclosure to the client of any conflict of
122 interest or relationship of the home inspector which may affect
123 the client.

124 (d) A written statement or agreement declaring the home
125 inspector's scope of services, limitations, terms, and
126 conditions regarding the home inspection.

127 (6) REPORT.--A home inspector must provide to the client,
128 within 3 working days after the date of the home inspection or
129 at any other time agreed upon by both parties, a written report
130 of the results of the home inspection. The relevant part of the
131 report shall be provided by the buyer to the owner of the home
132 upon request if a home inspection report is used by the buyer as
133 a reason to void, modify, or refuse to close on a contract for
134 sale and purchase of the home.

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

136 (a) Accept any commission, allowance, gift, or other thing
137 of value from another party dealing with a client of the
138 inspector which relates to the inspection or conditions reported
139 by the home inspector.

140 (b) Offer any commission, allowance, gift, or other thing
141 of value to another party dealing with a client of the inspector
142 which offer relates to the inspection.

143 (c) Perform or offer to perform, for a fee, remedial work
144 on a property which the inspector has inspected in the preceding
145 12 months.

146 (d) Disclose, without the client's written consent, a home
147 inspection report to a person other than the client.



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148 (8) FAILURE TO COMPLY.--The failure of a home inspector to
149 comply with any provision of this section constitutes a
150 deceptive and unfair trade practice for which a cause of action
151 under part II of this chapter may be prosecuted, in addition to
152 any other remedy provided by law. A court may enjoin any person
153 who has substantially failed to comply with this section from
154 using the title "board-certified home inspector" for a
155 reasonable period of time and may require such person to inform
156 any potential client of the existence of such injunction.

157 (9) COMPLAINTS.--Complaints concerning a home inspector
158 subject to the provisions of this section may be referred to the
159 Division of Consumer Services of the Department of Agriculture
160 and Consumer Services. The division shall maintain records
161 regarding complaints and shall compile statistics regarding such
162 complaints.

163 Section 2. This act shall take effect July 1, 2003.