

By Senator Bennett

21-997-03

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; limiting the authority of the
9 Department of Agriculture and Consumer Services
10 to license home inspectors or to impose fees on
11 or file administrative complaints against home
12 inspectors; providing exemptions; requiring,
13 before inspection, provision of inspector
14 credentials, a caveat, a disclosure of
15 conflicts of interest and certain
16 relationships, and a statement or agreement of
17 scope, limitations, terms, and conditions;
18 requiring a report to the client on the results
19 of the inspection and requiring provision of
20 relevant portions thereof to homeowners under
21 certain circumstances; prohibiting certain acts
22 for which there are civil penalties; providing
23 that failure to comply is a deceptive and
24 unfair trade practice; providing for injunction
25 against use of the title "board-certified home
26 inspector" under certain circumstances and
27 requiring notice thereof to potential clients;
28 providing for the filing of complaints;
29 requiring maintenance of records regarding
30 complaints and compilation of statistics
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1 regarding such complaints; providing an
2 effective date.

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

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

8 501.935 Home inspection services; qualifications and
9 standards; exemptions; required disclosures prior to
10 inspection; report on inspection results; prohibited acts;
11 failure to comply; complaints.--

12 (1) INTENT.--The Legislature recognizes that the
13 performance of a home inspection requires certain unique
14 skills and that a home inspection should not be confused with
15 an engineering analysis, the practice of engineering, the
16 practice of architecture, an evaluation of compliance with
17 construction codes, a code enforcement inspection, contracting
18 as defined in chapter 489, or an appraisal as defined in
19 chapter 475. Therefore, it is in the public interest to
20 require the disclosure of information useful to assist
21 consumers in choosing a qualified home inspector, to inform
22 them of the limitations of a home inspection, and to prohibit
23 actions that conflict with the best interests of a home
24 inspector's client.

25 (2) DEFINITIONS.--As used in this section, the term:

26 (a) "Conspicuous type" means type in capital letters
27 at least 2 points larger than the largest type, exclusive of
28 headings, on the page on which it appears and, in all cases,
29 at least 10-point type. When conspicuous type is required, it
30 must be separated on all sides from other type and print.

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1 Conspicuous type may not be used in a disclosure or contract
2 except when required by law.

3 (b) "Home" means any improved residential real
4 property that is a single-family dwelling, duplex, triplex,
5 quadruplex, condominium unit, or cooperative unit. The term
6 includes the structure, fixtures, appliances, and mechanical
7 systems, but does not include offsite amenities or common
8 areas of a condominium or cooperative.

9 (c) "Home inspector" means any person who provides or
10 offers to provide a home inspection for a fee or other
11 compensation.

12 (d) "Home inspection" means an examination, done for
13 compensation, of the mechanical and physical components of a
14 home through visual means and operation of normal user
15 controls, without necessarily the use of any mathematical or
16 engineering science. The inspection may include, but is not
17 limited to, examination of the readily visible portions of the
18 structural, electrical, heating, central air-conditioning,
19 roofing, plumbing, insulation and ventilation, cladding
20 systems, doors and windows, interior surfaces, and chimneys
21 and fireplaces.

22 (3) HOME INSPECTION SERVICES; STANDARDS OF PRACTICE.--

23 (a) The Department of Agriculture and Consumer
24 Services shall adopt and incorporate by rule the Standards of
25 Practice of the American Society of Home Inspectors in effect
26 on January 1, 2003, or any other consensus-based home
27 inspection standard deemed equivalent by the Department of
28 Agriculture and Consumer Services, including minimum standards
29 required for a home inspector to claim to be a "certified home
30 inspector." Any such standard shall require that a home

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1 inspector have experience and have successfully passed an
2 examination regarding home inspections.

3 (b) In adopting the rules required by this subsection,
4 the department shall consult with representatives of the
5 Florida home inspection industry, the Florida Building Code
6 Administrators and Inspectors Board, the Construction Industry
7 Licensing Board, and the Electrical Contractors' Licensing
8 Board.

9 (c) The purpose and intent of this subsection is not
10 to create or impose a bureau or other state agency to regulate
11 the affairs of home inspectors. Accordingly, the Department of
12 Agriculture and Consumer Services shall not license a home
13 inspector, collect fees from a home inspector for licensure,
14 or file an administrative complaint against a home inspector
15 for a violation of this section or for a violation of rules
16 adopted under this section.

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

22 (a) A construction contractor licensed under chapter
23 489.

24 (b) An architect licensed under chapter 481.

25 (c) An engineer licensed under chapter 471.

26 (d) A building code administrator, plans examiner, or
27 building code inspector licensed under part XII of chapter
28 468.

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

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.

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

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

12 (b) A caveat in conspicuous type that states:

13 "AN INSPECTION IS INTENDED TO ASSIST IN EVALUATION OF
14 THE OVERALL CONDITION OF A HOME. THE INSPECTION IS BASED ON
15 OBSERVATION OF THE VISIBLE AND APPARENT CONDITION OF THE
16 BUILDING AND ITS MECHANICAL AND PHYSICAL COMPONENTS ON THE
17 DATE OF THE INSPECTION. THE RESULTS OF THIS HOME INSPECTION
18 ARE NOT INTENDED TO MAKE ANY REPRESENTATION REGARDING LATENT
19 OR CONCEALED DEFECTS THAT MAY EXIST, AND NO WARRANTY OR
20 GUARANTEE IS EXPRESSED OR IMPLIED. IT SHOULD BE UNDERSTOOD
21 THAT A HOME INSPECTION IS A GENERAL OVERVIEW OF THE CONDITION
22 OF THE BUILDING AND COMPONENTS. THE HOME INSPECTOR IS NOT
23 NECESSARILY A PROFESSIONAL WITH LICENSES AUTHORIZING THE
24 RENDERING OF DETAILED OPINIONS REGARDING ANY OR ALL OF THE
25 ITEMS OR SYSTEMS INCLUDED IN THE INSPECTION. YOU MAY WISH TO
26 SEEK AN OPINION FROM AN APPROPRIATELY LICENSED PROFESSIONAL AS
27 TO ANY DEFECTS OR CONCERNS MENTIONED IN THE REPORT."

28 (c) A written disclosure to the client of any conflict
29 of interest or relationship of the home inspector which may
30 affect the client.

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

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

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

13 (a) Accept any commission, allowance, gift, or other
14 thing of value from another party dealing with a client of the
15 inspector which relates to the inspection or conditions
16 reported by the home inspector.

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

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

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

25 (e) Perform an inspection of any home that has not
26 previously been sold.

27 (8) FAILURE TO COMPLY.--The failure of a home
28 inspector to comply with any provision of this section
29 constitutes a deceptive and unfair trade practice for which a
30 cause of action under part II of this chapter may be
31 prosecuted, in addition to any other remedy provided by law. A

1 court may enjoin any person who has substantially failed to
2 comply with this section from using the title "board-certified
3 home inspector" for a reasonable period of time and may
4 require such person to inform any potential client of the
5 existence of such injunction.

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

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

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15 SENATE SUMMARY

16 Provides requirements relating to home inspection
17 services. Provides legislative intent and definitions.
18 Requires the Department of Agriculture and Consumer
19 Services to adopt standards of practice for home
20 inspectors. Prohibits the department from issuing
21 licenses or imposing fees or filing complaints against a
22 home inspector. Provides exemptions. Requires, before
23 inspection, the disclosure of inspector credentials, a
24 caveat, conflicts of interest and certain relationships,
25 and a statement or agreement of scope, limitations,
26 terms, and conditions. Requires a report on the results
27 of the inspection. Prohibits certain acts, for which
28 there are civil penalties. Provides that failure to
29 comply is a deceptive and unfair trade practice and
30 provides penalties. Provides for an injunction against
31 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.