

By Senator Diaz de la Portilla

36-1739A-04

See HB 509

1 A bill to be entitled
2 An act relating to home inspection services;
3 creating s. 501.935, F.S.; providing for
4 licensure of persons providing home inspection
5 services; providing legislative intent and
6 definitions; providing standards of practice;
7 creating the Florida Home Inspection Advisory
8 Council; providing licensure requirements,
9 including grandfathering provisions; providing
10 exemptions; providing prohibited acts and
11 penalties; providing for complaints and
12 discipline; providing fees; requiring liability
13 insurance; exempting from duty to provide
14 repair cost estimates; providing for
15 reciprocity; providing continuing education
16 requirements; providing limitations; providing
17 for enforcement of violations; providing an
18 effective date.

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

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22 Section 1. Section 501.935, Florida Statutes, is
23 created to read:
24 501.935 Home inspection services; advisory council;
25 licensure requirements; exemptions; prohibited acts and
26 penalties; complaints and discipline; fees and insurance;
27 continuing education; reciprocity; limitations and
28 enforcement.--

29 (1) INTENT.--It is the intent of this section to
30 require the licensing of home inspectors and to ensure that
31 consumers of home inspection services can rely on the

1 competence of home inspectors, as determined by educational
2 and experience requirements and testing.

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

4 (a) "Department" means the Department of Business and
5 Professional Regulation.

6 (b) "Home" means any residential real property, or
7 manufactured or modular home, that is a single-family
8 dwelling, duplex, triplex, quadruplex, condominium unit, or
9 cooperative unit. The term does not include the common areas
10 of condominiums or cooperatives.

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

14 (d) "Home inspection" means a limited visual
15 examination of one or more of the readily accessible installed
16 systems and components of a home, including the structure,
17 electrical system, HVAC system, roof covering, plumbing
18 system, interior components, exterior components, and site
19 conditions that affect the structure, for the purposes of
20 providing a written professional opinion of the condition of
21 the home.

22 (3) STANDARDS OF PRACTICE.--The department, in
23 consultation with the Florida Home Inspection Advisory
24 Council, shall adopt by rule pursuant to ss. 120.536(1) and
25 120.54 the minimum standards of practice for home inspectors,
26 which shall be based on nationally recognized industry
27 standards of practice for home inspectors.

28 (4) FLORIDA HOME INSPECTION ADVISORY COUNCIL.--

29 (a) The department shall appoint a Florida Home
30 Inspection Advisory Council to consist of eight members who
31 are home inspectors having a minimum of 5 years' experience

1 each, one consumer member, and one nonvoting member from the
2 staff of the department.

3 (b) The mission of the advisory council is to provide
4 industry input to the department and assist the department in
5 developing standards of practice and rules pursuant to this
6 section.

7 (c) The advisory council shall assist the department
8 in the review of complaints filed against home inspectors.

9 (d) The advisory council shall meet at least three
10 times each year.

11 (5) EXEMPTIONS.--The following persons are not
12 required to comply with this section with regard to any
13 valuation condition, report, survey, evaluation, or estimate
14 rendered within the scope of practice authorized by such
15 license, except when such persons are operating within the
16 scope of this section:

17 (a) A construction contractor licensed under chapter
18 489.

19 (b) An architect licensed under chapter 481.

20 (c) An engineer licensed under chapter 471.

21 (d) A building code administrator, plans examiner, or
22 building code inspector licensed under part XII of chapter
23 468.

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

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

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1 (g) An inspector conducting inspections for
2 wood-destroying organisms on behalf of a licensee under
3 chapter 482.

4 (h) A firesafety inspector certified under s. 633.081.

5 (i) An insurance adjuster licensed under part VI of
6 chapter 626.

7 (j) An officer appointed by the court.

8 (6) LICENSE CRITERIA.--

9 (a) A person may not provide or represent himself or
10 herself as able to perform a professional home inspection for
11 compensation unless the person is licensed in accordance with
12 this section.

13 (b) A business entity may not provide or offer to
14 provide home inspection services unless each of the home
15 inspectors employed by the business entity is licensed in
16 accordance with this section.

17 (c) A business entity may not use, in connection with
18 the name or signature of the business entity, the title "home
19 inspectors" to describe the business entity's services unless
20 each of the home inspectors employed by the business entity is
21 licensed in accordance with this section.

22 (7) ELIGIBILITY.--To be eligible for a license as a
23 home inspector, an applicant must:

24 (a) Be of good moral character.

25 (b) Have successfully completed high school or its
26 equivalent.

27 (c) Have completed a course of study of no less than
28 90 hours that covers all of the following components of a
29 home: structure, electrical system, HVAC system, roof
30 covering, plumbing system, interior components, exterior
31 components, and site conditions that affect the structure.

1 (d) Pass an examination that is psychometrically valid
2 and meets the standards of the Council on Licensure,
3 Enforcement, and Regulation, as determined by the department.

4 (8) GRANDFATHERING.--For the first year after the
5 enactment of this section, to be eligible for a license as a
6 home inspector, an applicant must:

7 (a) Be of good moral character.

8 (b) Have successfully completed high school or its
9 equivalent.

10 (c) Have been engaged in the practice of home
11 inspection for compensation for not fewer than 3 years prior
12 to the effective date of this section.

13 (d) Have performed not fewer than 250 home inspections
14 for compensation.

15 (e) Have passed a psychometrically valid examination
16 that meets the standards in the Council on Licensure,
17 Enforcement, and Regulation publication "A Resource Brief on
18 Licensure Examinations," as determined by the department.

19 (9) PROHIBITED ACTS; PENALTIES.--

20 (a) A home inspector, a company that employs a home
21 inspector, or a company that is controlled by a company that
22 also has a financial interest in a company employing a home
23 inspector may not:

24 1. Perform or offer to perform, prior to closing, for
25 any additional fee, any repairs to a home on which the
26 inspector or the inspector's company has prepared a home
27 inspection report. This paragraph does not apply to a home
28 warranty company that is affiliated with or retains a home
29 inspector to perform repairs pursuant to a claim made under a
30 home warranty contract.

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1 2. Inspect for a fee any property in which the
2 inspector or the inspector's company has any financial or
3 transfer interest.

4 3. Offer or deliver any compensation, inducement, or
5 reward to the owner of the inspected property, or any broker
6 or agent therefor, for the referral of any business to the
7 inspector or the inspection company.

8 4. Accept an engagement to make an omission or prepare
9 a report in which the inspection itself, or the fee payable
10 for the inspection, is contingent upon either the conclusions
11 in the report, preestablished findings, or the close of
12 escrow.

13 (b) Any person who violates any provision of this
14 subsection commits a misdemeanor of the second degree,
15 punishable as provided in s. 775.082 or s. 775.083.

16 (10) COMPLAINTS; DISCIPLINE.--

17 (a) Complaints concerning a home inspector subject to
18 the provisions of this section shall be referred to the
19 department.

20 (b) In lieu of investigation, the department may place
21 in a registry a copy of a complaint received by the department
22 against a licensed home inspector, the inspector's response to
23 the complaint, and a copy of any records of the department
24 concerning the complaint.

25 (c) The department shall provide to the home inspector
26 a copy of the complaint no later than 30 days after the date
27 the complaint is received by the department alleging that the
28 inspector has engaged in conduct that is grounds for
29 discipline.

30 (d) After receiving a copy of the complaint, the home
31 inspector may place in a registry a statement within 30 days

1 that describes the inspector's view of the correctness or
2 relevance of any of the information contained in the
3 complaint.

4 (e) The department shall make the complaint and the
5 home inspector's response to the complaint available to the
6 public.

7 (f) The department shall remove all complaints against
8 and other information concerning a home inspector from the
9 registry if, for a period of 2 years from the date of the most
10 recent complaint filed in the registry, no further complaints
11 have been filed against the inspector.

12 (g) Unworthy or frivolous complaints shall be
13 discarded and shall not be retained.

14 (h) The department may make investigations or conduct
15 hearings pursuant to chapter 120 to determine whether a
16 violation of this section has occurred.

17 (i) The department may refuse to grant a home
18 inspector license or may suspend or revoke a home inspector
19 license upon proof to the satisfaction of the department that
20 the applicant or licensee has participated in an unfair
21 business practice relating to the provision of home inspection
22 services.

23 (11) FEES.--The department shall by rule establish the
24 fees for licensure, renewal of licensure, and other services
25 provided by the department under this section. Fees
26 established under this subsection may not exceed amounts
27 sufficient to defray the administrative costs to the state
28 under this section and shall be comparable to those charged
29 for other similar, regulated professions.

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1 (12) INSURANCE.--A licensed home inspector must
2 maintain a commercial general liability insurance policy in an
3 amount of not less than \$300,000.

4 (13) REPAIR COST ESTIMATES.--Home inspectors are not
5 required to provide estimates related to the cost of repair of
6 an inspected property.

7 (14) RECIPROCITY.--The department shall issue a home
8 inspector license to any person who holds a valid license,
9 certificate, or registration issued by another state,
10 territory, or possession of the United States or the District
11 of Columbia that has standards and licensing requirements
12 substantially equivalent to or exceeding those of this state,
13 as determined by the Florida Home Inspection Advisory Council,
14 upon payment of the fee imposed and submission of the written
15 application provided by the department.

16 (15) CONTINUING EDUCATION REQUIREMENTS.--A licensed
17 home inspector must complete at least 14 hours of continuing
18 education approved by the department during each calendar year
19 in order to maintain his or her license.

20 (16) STATUTE OF LIMITATIONS.--Chapter 95 governs when
21 an action to enforce an obligation, duty, or right arising
22 under this section must be commenced.

23 (17) ENFORCEMENT OF VIOLATIONS.--Any violation of this
24 section constitutes a deceptive and unfair trade practice,
25 punishable as provided in part II of this chapter.

26 Section 2. This act shall take effect July 1, 2004.
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