

HB 0979

2004

A bill to be entitled

An act relating to home inspection services; creating s. 501.935, F.S.; providing for licensure of persons providing home inspection services; providing legislative intent and definitions; providing standards of practice; creating the Florida Home Inspection Advisory Council; providing licensure requirements, including grandfathering provisions; providing exemptions; providing prohibited acts and penalties; providing for complaints and discipline; providing fees; requiring liability insurance; exempting from duty to provide repair cost estimates; providing for reciprocity; providing continuing education requirements; providing limitations; providing for enforcement of violations; 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; advisory council; licensure requirements; exemptions; prohibited acts and penalties; complaints and discipline; fees and insurance; continuing education; reciprocity; limitations and enforcement.--

(1) INTENT.--It is the intent of this section to require the licensing of home inspectors and to ensure that consumers of home inspection services can rely on the competence of home inspectors, as determined by educational and experience requirements and testing.

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

31 (a) "Department" means the Department of Business and
 32 Professional Regulation.

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

38 (c) "Home inspector" means any person who provides or
 39 offers to provide a home inspection for a fee or other
 40 compensation.

41 (d) "Home inspection" means a limited visual examination
 42 of one or more of the readily accessible installed systems and
 43 components of a home, including the structure, electrical
 44 system, HVAC system, roof covering, plumbing system, interior
 45 components, exterior components, and site conditions that affect
 46 the structure, for the purposes of providing a written
 47 professional opinion of the condition of the home.

48 (3) STANDARDS OF PRACTICE.--The department, in
 49 consultation with the Florida Home Inspection Advisory Council,
 50 shall adopt by rule pursuant to ss. 120.536(1) and 120.54 the
 51 minimum standards of practice for home inspectors, which shall
 52 be based on nationally recognized industry standards of practice
 53 for home inspectors.

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

55 (a) The department shall appoint a Florida Home Inspection
 56 Advisory Council to consist of eight members who are home
 57 inspectors having a minimum of 5 years' experience each, one

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58 consumer member, and one nonvoting member from the staff of the
 59 department.

60 (b) The mission of the advisory council is to provide
 61 industry input to the department and assist the department in
 62 developing standards of practice and rules pursuant to this
 63 section.

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

66 (d) The advisory council shall meet at least three times
 67 each year.

68 (5) EXEMPTIONS.--The following persons are not required to
 69 comply with this section with regard to any valuation condition,
 70 report, survey, evaluation, or estimate rendered within the
 71 scope of practice authorized by such license, except when such
 72 persons are operating within the scope of this section:

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

74 (b) An architect licensed under chapter 481.

75 (c) An engineer licensed under chapter 471.

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

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

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

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

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

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87 (i) An insurance adjuster licensed under part VI of
 88 chapter 626.

89 (j) An officer appointed by the court.

90 (6) LICENSE CRITERIA.--

91 (a) A person may not provide or represent himself or
 92 herself as able to perform a professional home inspection for
 93 compensation unless the person is licensed in accordance with
 94 this section.

95 (b) A business entity may not provide or offer to provide
 96 home inspection services unless each of the home inspectors
 97 employed by the business entity is licensed in accordance with
 98 this section.

99 (c) A business entity may not use, in connection with the
 100 name or signature of the business entity, the title "home
 101 inspectors" to describe the business entity's services unless
 102 each of the home inspectors employed by the business entity is
 103 licensed in accordance with this section.

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

106 (a) Be of good moral character.

107 (b) Have successfully completed high school or its
 108 equivalent.

109 (c) Have completed a course of study of no less than 90
 110 hours that covers all of the following components of a home:
 111 structure, electrical system, HVAC system, roof covering,
 112 plumbing system, interior components, exterior components, and
 113 site conditions that affect the structure.

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

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

120 (a) Be of good moral character.

121 (b) Have successfully completed high school or its
 122 equivalent.

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

126 (d) Have performed not fewer than 250 home inspections for
 127 compensation.

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

132 (9) PROHIBITED ACTS; PENALTIES.--

133 (a) A home inspector, a company that employs a home
 134 inspector, or a company that is controlled by a company that
 135 also has a financial interest in a company employing a home
 136 inspector may not:

137 1. Perform or offer to perform, prior to closing, for any
 138 additional fee, any repairs to a home on which the inspector or
 139 the inspector's company has prepared a home inspection report.
 140 This paragraph does not apply to a home warranty company that is
 141 affiliated with or retains a home inspector to perform repairs
 142 pursuant to a claim made under a home warranty contract.

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

146 3. Offer or deliver any compensation, inducement, or
 147 reward to the owner of the inspected property, or any broker or
 148 agent therefor, for the referral of any business to the
 149 inspector or the inspection company.

150 4. Accept an engagement to make an omission or prepare a
 151 report in which the inspection itself, or the fee payable for
 152 the inspection, is contingent upon either the conclusions in the
 153 report, preestablished findings, or the close of escrow.

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

157 (10) COMPLAINTS; DISCIPLINE.--

158 (a) Complaints concerning a home inspector subject to the
 159 provisions of this section shall be referred to the department.

160 (b) In lieu of investigation, the department may place in
 161 a registry a copy of a complaint received by the department
 162 against a licensed home inspector, the inspector's response to
 163 the complaint, and a copy of any records of the department
 164 concerning the complaint.

165 (c) The department shall provide to the home inspector a
 166 copy of the complaint no later than 30 days after the date the
 167 complaint is received by the department alleging that the
 168 inspector has engaged in conduct that is grounds for discipline.

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

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171 that describes the inspector's view of the correctness or
172 relevance of any of the information contained in the complaint.

173 (e) The department shall make the complaint and the home
174 inspector's response to the complaint available to the public.

175 (f) The department shall remove all complaints against and
176 other information concerning a home inspector from the registry
177 if, for a period of 2 years from the date of the most recent
178 complaint filed in the registry, no further complaints have been
179 filed against the inspector.

180 (g) Unworthy or frivolous complaints shall be discarded
181 and shall not be retained.

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

185 (i) The department may refuse to grant a home inspector
186 license or may suspend or revoke a home inspector license upon
187 proof to the satisfaction of the department that the applicant
188 or licensee has participated in an unfair business practice
189 relating to the provision of home inspection services.

190 (11) FEES.--The department shall by rule establish the
191 fees for licensure, renewal of licensure, and other services
192 provided by the department under this section. Fees established
193 under this subsection may not exceed amounts sufficient to
194 defray the administrative costs to the state under this section
195 and shall be comparable to those charged for other similar,
196 regulated professions.

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

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

203 (14) RECIPROCITY.--The department shall issue a home
 204 inspector license to any person who holds a valid license,
 205 certificate, or registration issued by another state, territory,
 206 or possession of the United States or the District of Columbia
 207 that has standards and licensing requirements substantially
 208 equivalent to or exceeding those of this state, as determined by
 209 the Florida Home Inspection Advisory Council, upon payment of
 210 the fee imposed and submission of the written application
 211 provided by the department.

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

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

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

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