

By Senator Argenziano

3-1135-05

See HB 315

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 appropriation and authorizing positions;

19 providing an effective date.

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

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

25 501.935 Home inspection services; advisory council;

26 licensure requirements; exemptions; prohibited acts and

27 penalties; complaints and discipline; fees and insurance;

28 continuing education; reciprocity; limitations and

29 enforcement.--

30 (1) INTENT.--It is the intent of this section to

31 require the licensing of home inspectors and to ensure that

1 consumers of home inspection services can rely on the
2 competence of home inspectors, as determined by educational
3 and experience requirements and testing.

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

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

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

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

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

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

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

30 (a) The department shall appoint a Florida Home
31 Inspection Advisory Council to consist of eight members who

1 are home inspectors having a minimum of 5 years' experience
2 each, one consumer member, and one nonvoting member from the
3 staff of the department.

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

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

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

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

18 (a) A construction contractor licensed under chapter
19 489.

20 (b) An architect licensed under chapter 481.

21 (c) An engineer licensed under chapter 471.

22 (d) A building code administrator, plans examiner, or
23 building code inspector licensed under part XII of chapter
24 468.

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

28 (f) An inspector whose report is being provided to,
29 and is solely for the benefit of, the Federal Housing
30 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 (k) A master septic tank contractor licensed under
9 part III of chapter 489.

10 (l) A certified energy auditor performing an energy
11 audit of any home or building conducted under chapter 366 or
12 rules adopted by the Public Service Commission.

13 (6) LICENSE CRITERIA.--

14 (a) A person may not provide or represent himself or
15 herself as able to perform a professional home inspection for
16 compensation unless the person is licensed in accordance with
17 this section.

18 (b) A business entity may not provide or offer to
19 provide home inspection services unless each of the home
20 inspectors employed by the business entity is licensed in
21 accordance with this section.

22 (c) A business entity may not use, in connection with
23 the name or signature of the business entity, the title "home
24 inspectors" to describe the business entity's services unless
25 each of the home inspectors employed by the business entity is
26 licensed in accordance with this section.

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

29 (a) Be of good moral character.

30 (b) Have successfully completed high school or its
31 equivalent.

1 (c) Have completed a course of study of no less than
2 90 hours that covers all of the following components of a
3 home: structure, electrical system, HVAC system, roof
4 covering, plumbing system, interior components, exterior
5 components, and site conditions that affect the structure.

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

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

12 (a) Be of good moral character.

13 (b) Have successfully completed high school or its
14 equivalent or have been in the business of home inspection
15 services for at least 5 years.

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

19 (d) Have performed not fewer than 250 home inspections
20 for compensation.

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

25 (9) PROHIBITED ACTS; PENALTIES.--

26 (a) A home inspector, a company that employs a home
27 inspector, or a company that is controlled by a company that
28 also has a financial interest in a company employing a home
29 inspector may not:

30 1. Perform or offer to perform, prior to closing, for
31 any additional fee, any repairs to a home on which the

1 inspector or the inspector's company has prepared a home
2 inspection report. This paragraph does not apply to a home
3 warranty company that is affiliated with or retains a home
4 inspector to perform repairs pursuant to a claim made under a
5 home warranty contract.

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

9 3. Offer or deliver any compensation, inducement, or
10 reward to the owner of the inspected property, or any broker
11 or agent therefor, for the referral of any business to the
12 inspector or the inspection company.

13 4. Accept an engagement to make an omission or prepare
14 a report in which the inspection itself, or the fee payable
15 for the inspection, is contingent upon either the conclusions
16 in the report, preestablished findings, or the close of
17 escrow.

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

21 (10) COMPLAINTS; DISCIPLINE.--

22 (a) Complaints concerning a home inspector subject to
23 the provisions of this section shall be referred to the
24 department.

25 (b) In lieu of investigation, the department may place
26 in a registry a copy of a complaint received by the department
27 against a licensed home inspector, the inspector's response to
28 the complaint, and a copy of any records of the department
29 concerning the complaint.

30 (c) The department shall provide to the home inspector
31 a copy of the complaint no later than 30 days after the date

1 the complaint is received by the department alleging that the
2 inspector has engaged in conduct that is grounds for
3 discipline.

4 (d) After receiving a copy of the complaint, the home
5 inspector may place in a registry a statement within 30 days
6 that describes the inspector's view of the correctness or
7 relevance of any of the information contained in the
8 complaint.

9 (e) The department shall make the complaint and the
10 home inspector's response to the complaint available to the
11 public.

12 (f) The department shall remove all complaints against
13 and other information concerning a home inspector from the
14 registry if, for a period of 2 years from the date of the most
15 recent complaint filed in the registry, no further complaints
16 have been filed against the inspector.

17 (g) Unworthy or frivolous complaints shall be
18 discarded and shall not be retained.

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

22 (i) The department may refuse to grant a home
23 inspector license or may suspend or revoke a home inspector
24 license upon proof to the satisfaction of the department that
25 the applicant or licensee has participated in an unfair
26 business practice relating to the provision of home inspection
27 services.

28 (11) FEES.--The department shall by rule establish the
29 fees for licensure, renewal of licensure, and other services
30 provided by the department under this section. Fees
31 established under this subsection may not exceed amounts

1 sufficient to defray the administrative costs to the state
2 under this section and shall be comparable to those charged
3 for other similar, regulated professions.

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

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

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

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

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

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

29 Section 2. For the 2005-2006 fiscal year, the sum of
30 \$642,463 is appropriated from the Professional Regulation
31 Trust Fund, and four positions are authorized, to the

1 Department of Business and Professional Regulation for the
2 purpose of conducting licensing and regulatory activities
3 associated with home inspection services.

4 Section 3. This act shall take effect July 1, 2005.
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