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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 appropriation and
 authorizing positions; 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

29 inspectors, as determined by educational and experience
 30 requirements and testing.

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

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

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

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

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

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

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

56 (a) The department shall appoint a Florida Home Inspection

57 Advisory Council to consist of eight members who are home
58 inspectors having a minimum of 5 years' experience each, one
59 consumer member, and one nonvoting member from the staff of the
60 department.

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

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

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

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

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

75 (b) An architect licensed under chapter 481.

76 (c) An engineer licensed under chapter 471.

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

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

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

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

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

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

90 (j) An officer appointed by the court.

91 (k) A master septic tank contractor licensed under part
 92 III of chapter 489.

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

96 (6) LICENSE CRITERIA.--

97 (a) A person may not provide or represent himself or
 98 herself as able to perform a professional home inspection for
 99 compensation unless the person is licensed in accordance with
 100 this section.

101 (b) A business entity may not provide or offer to provide
 102 home inspection services unless each of the home inspectors
 103 employed by the business entity is licensed in accordance with
 104 this section.

105 (c) A business entity may not use, in connection with the
 106 name or signature of the business entity, the title "home
 107 inspectors" to describe the business entity's services unless
 108 each of the home inspectors employed by the business entity is
 109 licensed in accordance with this section.

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

112 (a) Be of good moral character.

- 113 (b) Have successfully completed high school or its
 114 equivalent.
- 115 (c) Have completed a course of study of no less than 90
 116 hours that covers all of the following components of a home:
 117 structure, electrical system, HVAC system, roof covering,
 118 plumbing system, interior components, exterior components, and
 119 site conditions that affect the structure.
- 120 (d) Pass an examination that is psychometrically valid and
 121 meets the standards of the Council on Licensure, Enforcement,
 122 and Regulation, as determined by the department.
- 123 (8) GRANDFATHERING.--For the first year after the
 124 enactment of this section, to be eligible for a license as a
 125 home inspector, an applicant must:
- 126 (a) Be of good moral character.
- 127 (b) Have successfully completed high school, its
 128 equivalent, or have been in the business of home inspection
 129 services for at least 5 years.
- 130 (c) Have been engaged in the practice of home inspection
 131 for compensation for not fewer than 3 years prior to the
 132 effective date of this section.
- 133 (d) Have performed not fewer than 250 home inspections for
 134 compensation.
- 135 (e) Have passed a psychometrically valid examination that
 136 meets the standards in the Council on Licensure, Enforcement,
 137 and Regulation publication "A Resource Brief on Licensure
 138 Examinations," as determined by the department.
- 139 (9) PROHIBITED ACTS; PENALTIES.--
- 140 (a) A home inspector, a company that employs a home

141 inspector, or a company that is controlled by a company that
 142 also has a financial interest in a company employing a home
 143 inspector may not:

144 1. Perform or offer to perform, prior to closing, for any
 145 additional fee, any repairs to a home on which the inspector or
 146 the inspector's company has prepared a home inspection report.
 147 This paragraph does not apply to a home warranty company that is
 148 affiliated with or retains a home inspector to perform repairs
 149 pursuant to a claim made under a home warranty contract.

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

153 3. Offer or deliver any compensation, inducement, or
 154 reward to the owner of the inspected property, or any broker or
 155 agent therefor, for the referral of any business to the
 156 inspector or the inspection company.

157 4. Accept an engagement to make an omission or prepare a
 158 report in which the inspection itself, or the fee payable for
 159 the inspection, is contingent upon either the conclusions in the
 160 report, preestablished findings, or the close of escrow.

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

164 (10) COMPLAINTS; DISCIPLINE.--

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

167 (b) In lieu of investigation, the department may place in
 168 a registry a copy of a complaint received by the department

169 against a licensed home inspector, the inspector's response to
 170 the complaint, and a copy of any records of the department
 171 concerning the complaint.

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

176 (d) After receiving a copy of the complaint, the home
 177 inspector may place in a registry a statement within 30 days
 178 that describes the inspector's view of the correctness or
 179 relevance of any of the information contained in the complaint.

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

182 (f) The department shall remove all complaints against and
 183 other information concerning a home inspector from the registry
 184 if, for a period of 2 years from the date of the most recent
 185 complaint filed in the registry, no further complaints have been
 186 filed against the inspector.

187 (g) Unworthy or frivolous complaints shall be discarded
 188 and shall not be retained.

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

192 (i) The department may refuse to grant a home inspector
 193 license or may suspend or revoke a home inspector license upon
 194 proof to the satisfaction of the department that the applicant
 195 or licensee has participated in an unfair business practice
 196 relating to the provision of home inspection services.

197 (11) FEES.--The department shall by rule establish the
198 fees for licensure, renewal of licensure, and other services
199 provided by the department under this section. Fees established
200 under this subsection may not exceed amounts sufficient to
201 defray the administrative costs to the state under this section
202 and shall be comparable to those charged for other similar,
203 regulated professions.

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

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

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

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

223 (16) STATUTE OF LIMITATIONS.--Chapter 95 governs when an
224 action to enforce an obligation, duty, or right arising under

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225 this section must be commenced.

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

229 Section 2. For the 2005-2006 fiscal year, the sum of
230 \$642,463 is appropriated from the Professional Regulation Trust
231 Fund, and four positions are authorized, to the Department of
232 Business and Professional Regulation for the purpose of
233 conducting licensing and regulatory activities associated with
234 home inspection services.

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