

CHAMBER ACTION

1 The Business Regulation Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to home inspection services; creating s.
7 501.935, F.S.; providing definitions; providing
8 requirements for practice; providing exemptions; providing
9 prohibited acts and penalties; requiring liability
10 insurance; exempting from duty to provide repair cost
11 estimates; providing limitations; providing for
12 enforcement of violations; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Section 501.935, Florida Statutes, is created
17 to read:

18 501.935 Home inspection services; requirements;
19 exemptions; prohibited acts and penalties; insurance;
20 limitations and enforcement.--

21 (1) DEFINITIONS.--As used in this section, the term:

22 (a) "Home" means any residential real property, or
23 manufactured or modular home, that is a single-family dwelling,

24 duplex, triplex, quadruplex, condominium unit, or cooperative
 25 unit. The term does not include the common areas of condominiums
 26 or cooperatives.

27 (b) "Home inspector" means any person who provides or
 28 offers to provide a home inspection for a fee or other
 29 compensation.

30 (c) "Home inspection" means a limited visual examination
 31 of one or more of the readily accessible installed systems and
 32 components of a home, including the structure, electrical
 33 system, HVAC system, roof covering, plumbing system, interior
 34 components, exterior components, and site conditions that affect
 35 the structure, for the purposes of providing a written
 36 professional opinion of the condition of the home.

37 (2) REQUIREMENTS FOR PRACTICE.--

38 (a) A person shall not work as a home inspector unless he
 39 or she has evidence of membership in and adherence to the
 40 ethical standards of a national association of home inspectors
 41 that:

42 1. Is operated on a not-for-profit basis and is not
 43 operated as a franchise.

44 2. Has members in more than 10 states.

45 3. Requires that a person may not become a full member
 46 unless the person has performed or participated in more than 100
 47 home inspections and has passed a recognized or accredited
 48 examination testing knowledge of the proper procedures for
 49 conducting a home inspection.

50 4. Requires that its members comply with a code of conduct
 51 and attend continuing professional education classes as an
 52 ongoing condition of membership.

53 5. Has received written confirmation from the Department
 54 of Legal Affairs that the association meets the criteria in this
 55 paragraph.

56 (b) A business entity may not provide or offer to provide
 57 home inspection services unless each of the home inspectors
 58 employed by the business entity satisfies all the requirements
 59 of this section.

60 (c) A business entity may not use, in connection with the
 61 name or signature of the business entity, the title "home
 62 inspectors" to describe the business entity's services unless
 63 each of the home inspectors employed by the business entity
 64 satisfies all the requirements of this section.

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

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

71 (b) An architect licensed under chapter 481.

72 (c) An engineer licensed under chapter 471.

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

75 (e) A certified real estate appraiser, licensed real
 76 estate appraiser, or registered real estate appraiser licensed
 77 under part II of chapter 475.

78 | (f) An inspector whose report is being provided to, and is
 79 | solely for the benefit of, the Federal Housing Administration or
 80 | the Veterans Administration.

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

83 | (h) A firesafety inspector certified under s. 633.081.

84 | (i) An insurance adjuster licensed under part VI of
 85 | chapter 626.

86 | (j) An officer appointed by the court.

87 | (k) A master septic tank contractor licensed under part
 88 | III of chapter 489.

89 | (l) A certified energy auditor performing an energy audit
 90 | of any home or building conducted under chapter 366 or rules
 91 | adopted by the Public Service Commission.

92 | (4) PROHIBITED ACTS; PENALTIES.--

93 | (a) A home inspector, a company that employs a home
 94 | inspector, or a company that is controlled by a company that
 95 | also has a financial interest in a company employing a home
 96 | inspector may not:

97 | 1. Perform or offer to perform, prior to closing, for any
 98 | additional fee, any repairs to a home on which the inspector or
 99 | the inspector's company has prepared a home inspection report.
 100 | This paragraph does not apply to a home warranty company that is
 101 | affiliated with or retains a home inspector to perform repairs
 102 | pursuant to a claim made under a home warranty contract.

103 | 2. Inspect for a fee any property in which the inspector
 104 | or the inspector's company has any financial or transfer
 105 | interest.

106 3. Offer or deliver any compensation, inducement, or
 107 reward to the owner of the inspected property, or any broker or
 108 agent therefor, for the referral of any business to the
 109 inspector or the inspection company.

110 4. Accept an engagement to make an omission or prepare a
 111 report in which the inspection itself, or the fee payable for
 112 the inspection, is contingent upon either the conclusions in the
 113 report, preestablished findings, or the close of escrow.

114 (b) Any person who violates any provision of this
 115 subsection commits:

116 1. A misdemeanor of the second degree for a first
 117 violation, punishable as provided in s. 775.082 or s. 775.083.

118 2. A misdemeanor of the first degree for a second
 119 violation, punishable as provided in s. 775.082 or s. 775.083.

120 3. A felony of the third degree for a third or subsequent
 121 violation, punishable as provided in s. 775.082, s. 775.083, or
 122 s. 775.084.

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

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

129 (7) STATUTE OF LIMITATIONS.--Chapter 95 governs when an
 130 action to enforce an obligation, duty, or right arising under
 131 this section must be commenced.

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132 | (8) ENFORCEMENT OF VIOLATIONS.--Any violation of this
133 | section constitutes a deceptive and unfair trade practice,
134 | punishable as provided in part II of this chapter.

135 | Section 2. This act shall take effect July 1, 2005.