

CHAMBER ACTION

1 The Commerce Council 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:

40 1. Has successfully completed a course of study, which
 41 requires a passing score on a valid examination and which is
 42 provided through a nonprofit organization or a community college
 43 or university, in home inspections which is not less than 80
 44 hours and which includes, but is not limited to, each of the
 45 following components of a home: structure, electrical system,
 46 roof covering, plumbing system, interior components, exterior
 47 components, site conditions that affect the structure, and
 48 heating, ventilation, and cooling systems.

49 2. Completes 8 hours of continuing education provided
 50 through a nonprofit organization or a community college or
 51 university related to home inspections annually.

52 3. Discloses each of the following to the consumer in
 53 writing and prior to contracting for or commencing a home
 54 inspection:

55 a. The home inspector meets the education and examination
 56 requirements of this subsection.

57 b. The home inspector maintains the commercial general
 58 liability insurance policy required by this section.

59 c. The scope and any exclusions of the home inspection.

60 d. A statement of experience which shall include either
 61 the approximate number of home inspections the home inspector
 62 has performed for a fee or the number of years of experience as
 63 a home inspector.

64 e. Home inspectors are not regulated by any state agency,
 65 but any violation of this section may be an unfair and deceptive
 66 trade practice under part II of this chapter.

67 (b) A business entity may not provide or offer to provide
 68 home inspection services unless each of the home inspectors
 69 employed by the business entity satisfies all the requirements
 70 of this section.

71 (c) A business entity may not use, in connection with the
 72 name or signature of the business entity, the title "home
 73 inspectors" to describe the business entity's services unless
 74 each of the home inspectors employed by the business entity
 75 satisfies all the requirements of this section.

76 (3) EXEMPTIONS.--The following persons are not required to
 77 comply with this section when acting within the scope of
 78 practice authorized by such license, except when such persons
 79 are conducting, producing, disseminating, or charging a fee for

80 a home inspection or otherwise operating within the scope of
 81 this section:

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

83 (b) An architect licensed under chapter 481.

84 (c) An engineer licensed under chapter 471.

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

87 (e) A certified real estate appraiser, licensed real
 88 estate appraiser, or registered real estate appraiser licensed
 89 under part II of chapter 475.

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

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

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

96 (i) An insurance adjuster licensed under part VI of
 97 chapter 626.

98 (j) An officer appointed by the court.

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

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

104 (4) PROHIBITED ACTS; PENALTIES.--

105 (a) A home inspector, a company that employs a home
 106 inspector, or a company that is controlled by a company that

107 also has a financial interest in a company employing a home
 108 inspector may not:

109 1. Perform or offer to perform, prior to closing, for any
 110 additional fee, any repairs to a home on which the inspector or
 111 the inspector's company has prepared a home inspection report.
 112 This paragraph does not apply to a home warranty company that is
 113 affiliated with or retains a home inspector to perform repairs
 114 pursuant to a claim made under a home warranty contract.

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

118 3. Offer or deliver any compensation, inducement, or
 119 reward to the owner of the inspected property, or any broker or
 120 agent therefor, for the referral of any business to the
 121 inspector or the inspection company.

122 4. Accept an engagement to make an omission or prepare a
 123 report in which the inspection itself, or the fee payable for
 124 the inspection, is contingent upon either the conclusions in the
 125 report, preestablished findings, or the close of escrow.

126 (b) Any person who violates any provision of this
 127 subsection commits:

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

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

132 3. A felony of the third degree for a third or subsequent
 133 violation, punishable as provided in s. 775.082, s. 775.083, or
 134 s. 775.084.

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

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

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

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

147 Section 2. This act shall take effect January 1, 2006.