

1 A bill to be entitled
 2 An act relating to home inspection services; creating s.
 3 501.935, F.S.; providing definitions; providing
 4 requirements for practice; providing exemptions; providing
 5 prohibited acts and penalties; requiring liability
 6 insurance; exempting from duty to provide repair cost
 7 estimates; providing limitations; providing for
 8 enforcement of violations; providing an effective date.

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

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 12 Section 1. Section 501.935, Florida Statutes, is created
 13 to read:

14 501.935 Home inspection services; requirements;
 15 exemptions; prohibited acts and penalties; insurance;
 16 limitations and enforcement.--

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

18 (a) "Home" means any residential real property, or
 19 manufactured or modular home, that is a single-family dwelling,
 20 duplex, triplex, quadruplex, condominium unit, or cooperative
 21 unit. The term does not include the common areas of condominiums
 22 or cooperatives.

23 (b) "Home inspector" means any person who provides or
 24 offers to provide a home inspection for a fee or other
 25 compensation.

26 (c) "Home inspection" means a limited visual examination
 27 of one or more of the readily accessible installed systems and
 28 components of a home, including the structure, electrical

29 system, HVAC system, roof covering, plumbing system, interior
30 components, exterior components, and site conditions that affect
31 the structure, for the purposes of providing a written
32 professional opinion of the condition of the home.

33 (2) REQUIREMENTS FOR PRACTICE.--

34 (a) A person shall not work as a home inspector unless he
35 or she:

36 1. Has successfully completed a course of study, which
37 requires a passing score on a valid examination in home
38 inspections which is not less than 80 hours and which includes,
39 but is not limited to, each of the following components of a
40 home: structure, electrical system, roof covering, plumbing
41 system, interior components, exterior components, site
42 conditions that affect the structure, and heating, ventilation,
43 and cooling systems.

44 2. Completes 8 hours of continuing education related to
45 home inspections annually.

46 3. Discloses each of the following to the consumer in
47 writing and prior to contracting for or commencing a home
48 inspection:

49 a. The home inspector meets the education and examination
50 requirements of this subsection.

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

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

54 d. A statement of experience which shall include either
55 the approximate number of home inspections the home inspector

56 has performed for a fee or the number of years of experience as
57 a home inspector.

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

61 (b) A business entity may not provide or offer to provide
62 home inspection services unless each of the home inspectors
63 employed by the business entity satisfies all the requirements
64 of this section.

65 (c) A business entity may not use, in connection with the
66 name or signature of the business entity, the title "home
67 inspectors" to describe the business entity's services unless
68 each of the home inspectors employed by the business entity
69 satisfies all the requirements of this section.

70 (3) EXEMPTIONS.--The following persons are not required to
71 comply with this section when acting within the scope of
72 practice authorized by such license, except when such persons
73 are conducting, producing, disseminating, or charging a fee for
74 a home inspection or otherwise operating within the scope of
75 this section:

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

77 (b) An architect licensed under chapter 481.

78 (c) An engineer licensed under chapter 471.

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

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

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

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

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

90 (i) An insurance adjuster licensed under part VI of
 91 chapter 626.

92 (j) An officer appointed by the court.

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

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

98 (m) A mobile home manufacturer, dealer, or installer
 99 regulated or licensed pursuant to the requirements of chapter
 100 320 and any employees or agents of the manufacturer, dealer, or
 101 installer.

102 (4) PROHIBITED ACTS; PENALTIES.--

103 (a) A home inspector, a company that employs a home
 104 inspector, or a company that is controlled by a company that
 105 also has a financial interest in a company employing a home
 106 inspector may not:

107 1. Perform or offer to perform, prior to closing, for any
 108 additional fee, any repairs to a home on which the inspector or
 109 the inspector's company has prepared a home inspection report.
 110 This paragraph does not apply to a home warranty company that is

111 affiliated with or retains a home inspector to perform repairs
112 pursuant to a claim made under a home warranty contract.

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

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

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

124 (b) Any person who violates any provision of this
125 subsection commits:

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

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

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

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

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

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

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

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