



1997 ASSEMBLY BILL 321

April 28, 1997 - Introduced by Representatives BOCK, FREESE, TRAVIS, RYBA, POWERS, GOETSCH, R. YOUNG, NOTESTEIN and MURAT, cosponsored by Senators BURKE and GROBSCHMIDT. Referred to Committee on Housing.

- 1 **AN ACT to create** 100.08 of the statutes; **relating to:** home inspection trade
2 practices, granting rule-making authority and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires that the department of agriculture, trade and consumer protection promulgate rules that a home inspector must follow in conducting a home inspection. These rules may be based in whole or in part on standards of practice developed by the American Society of Home Inspectors. In addition, the bill requires that a home inspector notify his or her clients of any conflict of interest, that a home inspector provide his or her client a written report of the home inspection within 30 days after the inspection and that a home inspector not disclose the result of a home inspection to any person other than the client without the client's permission. Finally, the bill prohibits a home inspector from repairing or performing maintenance work on a home that the home inspector has inspected within the previous year, requires that a home inspector notify his or her client if the home inspector gives a commission to another person for inducing the client to have the home inspector inspect the client's home and prohibits a home inspector from accepting compensation from more than one client for the same home inspection without informing the other clients.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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1 **SECTION 1.** 100.08 of the statutes is created to read:

2 **100.08 Home inspection trade practices. (1) DEFINITIONS.** In this section:

3 (a) "Client" means any person who hires for compensation a home inspector.

4 (b) "Compensation" means direct or indirect payment, including the
5 expectation of payment whether or not actually received.

6 (c) "Home inspection" means the inspection and analysis of the condition of the
7 mechanical or structural components of residential real property consisting of not
8 more than 4 dwelling units.

9 (d) "Home inspector" means a person who, for compensation, conducts a home
10 inspection, but does not include a person who performs maintenance or repairs to
11 residential real property, a person who is registered under ch. 443 or a person who
12 conducts home inspections in the normal course of his or her employment as an
13 employe of a federal, state or local governmental agency.

14 **(2) RULES.** The department shall promulgate rules identifying the standards
15 that a home inspector shall apply in conducting a home inspection and the
16 information that a home inspector is required to deliver to the client. In
17 promulgating rules under this section, the department shall consider including, as
18 part or all of the standards, the standards of practice established by the American
19 Society of Home Inspectors.

20 **(3) PROHIBITED HOME INSPECTION PRACTICES.** (a) No home inspector may give to
21 or receive from any person a fee, commission, rebate or other form of compensation
22 for sending, referring or otherwise inducing a client to contract with a home inspector
23 for a home inspection, unless the home inspector informs the client.

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1 (b) No home inspector may perform repair or maintenance work on a
2 residential property that he or she has inspected for a period of one year after the date
3 of the home inspection.

4 (c) No home inspector may accept compensation from more than one client for
5 a home inspection, unless the home inspector informs all clients who are paying a fee
6 for that home inspection.

7 **(4) HOME INSPECTION REQUIREMENTS.** (a) A home inspector shall disclose to the
8 client any conflict of interest that may adversely affect the client.

9 (b) A home inspector shall conduct a home inspection according to the
10 standards established by the department under sub. (2).

11 (c) A home inspector shall provide to the client, within 30 days after the date
12 of the home inspection, a written report of the results of the home inspection. The
13 report shall include the following notice stated in at least 10-point boldface type:

14 **NOTICE**

15 An inspection is intended to assist in evaluation of the overall condition of a
16 building. The inspection is based on observation of the visible and apparent
17 condition of the building and its components on the date of inspection.

18 The results of this home inspection are not intended to make any
19 representation regarding latent or concealed defects that may exist, and no warranty
20 of guaranty is expressed or implied.

21 If your home inspector is not a licensed structural engineer or other
22 professional whose license authorizes the rendering of an opinion as to the structural
23 integrity of a building or its component parts, you may be advised to seek a
24 professional opinion as to any defects or concerns mentioned in this report.

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1 (d) A home inspector may not disclose a home inspection report to any person
2 other than the client, without the client's consent.

3 **(5) ENFORCEMENT.** The department shall enforce this section. The department
4 may commence and prosecute an action to enjoin a violation of this section in the
5 name of the state, or the department may request that the department of justice
6 commence and prosecute such an action.

7 **(6) PENALTY.** Any person who violates this section or any rule promulgated
8 under this section may be required to forfeit not more than \$500 for each violation.

9 **SECTION 2. Effective date.**

10 (1) This act takes effect on the first day of the 12th month beginning after
11 publication.

12 (END)