



2019 ASSEMBLY BILL 655

December 5, 2019 - Introduced by Representatives BROOKS, MAGNAFICI, ALLEN, BROSTOFF, NOVAK, SINICKI, SKOWRONSKI, SPIROS, SUBECK and C. TAYLOR, cosponsored by Senators BERNIER and OLSEN. Referred to Committee on Regulatory Licensing Reform.

1 **AN ACT** *to repeal* 440.9715 (title); *to renumber* 440.9715 (1) and 440.9715 (3);
2 *to renumber and amend* 440.9712 (1), 440.9715 (intro.) and 440.9715 (2); *to*
3 *amend* 440.9712 (title), 440.9712 (1m), 440.9712 (2), 440.972 (title) and (1)
4 (intro.), (a) and (c), 440.972 (2), 440.973 (1), 440.973 (2), 440.973 (3), 440.974 (1)
5 (a), 440.974 (2), 440.975 (3) (cm), 440.978 (2) (intro.), (a) and (c), 440.978 (4)
6 (intro.), 440.978 (5) (intro.) and 440.979 (1); and *to create* 440.972 (1) (bg) and
7 (br), 440.972 (1m), 440.974 (1) (ag) and (ar), 440.975 (3) (bm) and 440.975 (3)
8 (cr) of the statutes; **relating to:** regulation of home inspectors, extending the
9 time limit for emergency rule procedures, providing an exemption from
10 emergency rule procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, no individual may act as a home inspector, use the title “home inspector,” use any title or description that implies that he or she is a home inspector, or represent himself or herself to be a home inspector unless the individual is registered with the Department of Safety and Professional Services. Similarly, no business entity may provide home inspection

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services, and no business entity may use the title “home inspectors” to describe the business entity’s services, unless each of the home inspectors employed by the business entity is so registered. In order to become a registered home inspector, an individual must not have a disqualifying criminal record and must pass an examination approved by DSPS. The practice of home inspectors is governed by statutes and by rules promulgated by DSPS. This bill does the following with respect to the law governing home inspectors:

1. Requires home inspectors to be licensed, rather than registered. The bill grandfathers current registrants in as licensees.

2. Requires, in order to be granted a home inspector license, that an individual complete 120 hours of instruction and 40 hours of field training, as well as the requirements under current law for a home inspector registration.

3. Provides for reciprocal licensure of home inspectors licensed in other states who have comparable or more stringent requirements.

4. Adjusts the contents that a report submitted by a home inspector to a client is required to contain, including by adding a number of required elements for the report and requiring defects to be identified as such.

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:

1 **SECTION 1.** 440.9712 (title) of the statutes is amended to read:

2 **440.9712** (title) **Registration License required; exceptions.**

3 **SECTION 2.** 440.9712 (1) of the statutes is renumbered 440.9712 (1) (a) and
4 amended to read:

5 440.9712 (1) (a) Except as provided in ~~s. 440.9715~~ par. (b), no individual may
6 act as a home inspector, use the title “home inspector”, inspector, use any title or
7 description that implies that he or she is a home inspector, or represent himself or
8 herself to be a home inspector unless the individual is ~~registered~~ licensed under this
9 subchapter.

10 **SECTION 3.** 440.9712 (1m) of the statutes is amended to read:

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1 440.9712 **(1m)** No business entity may provide home inspection services unless
2 each of the home inspectors employed by the business entity is ~~registered~~ licensed
3 under this subchapter.

4 **SECTION 4.** 440.9712 (2) of the statutes is amended to read:

5 440.9712 **(2)** No business entity may use, in connection with the name or
6 signature of the business entity, the title “home inspectors” to describe the business
7 entity’s services, unless each of the home inspectors employed by the business entity
8 is ~~registered~~ licensed under this subchapter.

9 **SECTION 5.** 440.9715 (title) of the statutes is repealed.

10 **SECTION 6.** 440.9715 (intro.) of the statutes is renumbered 440.9712 (1) (b)
11 (intro.) and amended to read:

12 440.9712 **(1)** (b) (intro.) A ~~registration~~ license is not required under this
13 subchapter for any of the following:

14 **SECTION 7.** 440.9715 (1) of the statutes is renumbered 440.9712 (1) (b) 1.

15 **SECTION 8.** 440.9715 (2) of the statutes is renumbered 440.1912 (1) (b) 2. and
16 amended to read:

17 440.1912 **(1)** (b) 2. An individual who constructs, repairs, or maintains
18 improvements to residential real property, if the individual conducts home
19 inspections only as part of his or her business of constructing, repairing, or
20 maintaining improvements to real property and ~~if the individual~~ does not describe
21 himself or herself as a ~~registered~~ licensed home inspector or convey the impression
22 that he or she is a ~~registered~~ licensed home inspector.

23 **SECTION 9.** 440.9715 (3) of the statutes is renumbered 440.9712 (1) (b) 3.

24 **SECTION 10.** 440.972 (title) and (1) (intro.), (a) and (c) of the statutes are
25 amended to read:

ASSEMBLY BILL 655**SECTION 10**

1 **440.972** (title) ~~Registration~~ Licensure of home inspectors. (1) (intro.)

2 The department shall ~~register~~ grant a home inspector license to an individual under
3 ~~this subchapter~~ applicant if the individual applicant does all of the following:

4 (a) Submits an application ~~for registration~~ to the department on a form
5 provided by the department.

6 (c) Submits evidence satisfactory to the department that he or she is not subject
7 to a pending criminal charge, or has not been convicted of a felony, misdemeanor or
8 other offense, ~~the circumstances of which substantially relate to the practice of home~~
9 ~~inspection~~ subject to ss. 111.321, 111.322, and 111.335.

10 **SECTION 11.** 440.972 (1) (bg) and (br) of the statutes are created to read:

11 440.972 (1) (bg) Submits evidence satisfactory to the department that he or she
12 has completed at least 120 hours of instruction approved by the department under
13 s. 440.974 (1) (ag). No more than 60 hours of the required hours may be satisfied
14 through remote learning, online programs or other comparable means that do not
15 involve in-person, classroom instruction.

16 (br) Submits evidence satisfactory to the department that he or she has
17 completed at least 40 hours of field training approved by the department under
18 under s. 440.974 (1) (ar) that is conducted by a home inspector licensed in this state.

19 **SECTION 12.** 440.972 (1m) of the statutes is created to read:

20 440.972 (1m) The department shall grant a home inspector license to an
21 applicant who is licensed in good standing as a home inspector in another state if the
22 applicant complies with sub. (1) (a), (b), (c), and (d) and the other state has licensing
23 requirements that the department determines meet or exceed those required under
24 sub. (1).

25 **SECTION 13.** 440.972 (2) of the statutes is amended to read:

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1 440.972 (2) The renewal date for ~~certificates~~ licenses granted under this
2 section is specified under s. 440.08 (2) (a) ~~38g.~~, and the renewal fee for such
3 ~~certificates~~ licenses is determined by the department under s. 440.03 (9) (a).

4 **SECTION 14.** 440.973 (1) of the statutes is amended to read:

5 440.973 (1) No person may be ~~registered~~ licensed under this subchapter unless
6 he or she passes an examination approved by the department. In approving an
7 examination under this subsection, the department shall consider the use of an
8 examination that is similar to an examination that is required for membership in the
9 American Society of Home Inspectors.

10 **SECTION 15.** 440.973 (2) of the statutes is amended to read:

11 440.973 (2) The department shall conduct examinations for home inspector
12 ~~registration~~ licensure at least semiannually at times and places determined by the
13 department.

14 **SECTION 16.** 440.973 (3) of the statutes is amended to read:

15 440.973 (3) An individual is not eligible for examination unless the individual
16 has satisfied the requirements for ~~registration~~ licensure under s. 440.972 (1) (a) ~~to~~
17 ~~(e)~~ and (b) at least 30 days before the date of the examination.

18 **SECTION 17.** 440.974 (1) (a) of the statutes is amended to read:

19 440.974 (1) (a) Standards for acceptable ~~examination~~ performance by an
20 applicant for ~~registration~~ licensure under this subchapter on an examination under
21 s. 440.973 (1).

22 **SECTION 18.** 440.974 (1) (ag) and (ar) of the statutes are created to read:

23 440.974 (1) (ag) Standards for instruction for purposes of the requirement
24 under s. 440.972 (1) (bg).

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1 (ar) Standards for field training for purposes of the requirement under s.
2 440.972 (1) (br).

3 **SECTION 19.** 440.974 (2) of the statutes is amended to read:

4 440.974 (2) The department shall promulgate rules establishing continuing
5 education requirements for individuals ~~registered~~ licensed under this subchapter.
6 The rules promulgated under this subsection shall require the completion of at least
7 40 hours of continuing education every 2 years. The rules promulgated under this
8 subsection may not require continuing education for an applicant for renewal of a
9 license that expires on the first renewal date after the date on which the department
10 initially granted the license.

11 **SECTION 20.** 440.975 (3) (bm) of the statutes is created to read:

12 440.975 (3) (bm) States the property address, the name of the home inspector
13 who conducted the home inspection, the date of the home inspection, the names of
14 the individuals who prepared the report, the date the report was prepared, and, if
15 applicable, the date the report was revised.

16 **SECTION 21.** 440.975 (3) (cm) of the statutes is amended to read:

17 440.975 (3) (cm) Describes any defect that is detected by the home inspector
18 during his or her home inspection. A home inspector is ~~not required to~~ shall use the
19 term “defect” in describing a defect in the written report required under this
20 subsection. A home inspector may not use the term “defect” in a written report
21 required under this subsection unless that use is consistent with s. 440.97 (2m).

22 **SECTION 22.** 440.975 (3) (cr) of the statutes is created to read:

23 440.975 (3) (cr) Includes a summary page listing and labeling, in the following
24 order, conditions observed as defects, safety concerns, components needing repairs,
25 components needing further evaluation, items to monitor, and maintenance items;

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1 and including references to the page or item number in the detailed account for
2 further information.

3 **SECTION 23.** 440.978 (2) (intro.), (a) and (c) of the statutes are amended to read:

4 440.978 (2) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
5 department may reprimand a home inspector or deny, limit, suspend, or revoke a
6 ~~certificate~~ license under this subchapter if the department finds that the applicant
7 or home inspector has done any of the following:

8 (a) Made a material misstatement in an application for a ~~certificate~~ license or
9 renewal of a ~~certificate~~ license.

10 (c) Subject to ss. 111.321, 111.322 and 111.335, been arrested or convicted of an
11 offense committed while ~~registered~~ licensed under this subchapter.

12 **SECTION 24.** 440.978 (4) (intro.) of the statutes is amended to read:

13 440.978 (4) (intro.) In lieu of proceeding under sub. (1) or (2), the department
14 may place, in a registry information file, a copy of a complaint received by the
15 department against a ~~Wisconsin registered~~ licensed home inspector, the inspector's
16 response to the complaint and a copy of any records of the department concerning the
17 complaint. If the department establishes a registry information file under this
18 subsection, the department shall use the following procedure:

19 **SECTION 25.** 440.978 (5) (intro.) of the statutes is amended to read:

20 440.978 (5) (intro.) The department may, as a condition of removing a
21 limitation on a ~~certificate~~ license issued under this subchapter or of reinstating a
22 ~~certificate~~ license that has been suspended or revoked under this subchapter, do any
23 of the following:

24 **SECTION 26.** 440.979 (1) of the statutes is amended to read:

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1 440.979 (1) The number of home inspectors who are registered licensed under
2 this subchapter.

3 **SECTION 27. Nonstatutory provisions.**

4 (1) Notwithstanding s. 440.972, on the effective date of this subsection, a person
5 who, immediately prior to the effective date of this subsection, held a valid home
6 inspector registration under s. 440.972, 2017 stats., shall be a licensed home
7 inspector under s. 440.972.

8 (2) The department of safety and professional services may promulgate
9 emergency rules under s. 227.24 necessary to implement this act. Notwithstanding
10 s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain
11 in effect until May 1, 2022, or the date on which permanent rules take effect,
12 whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), the department is not
13 required to provide evidence that promulgating a rule under this subsection as an
14 emergency rule is necessary for the preservation of the public peace, health, safety,
15 or welfare and is not required to provide a finding of emergency for a rule
16 promulgated under this subsection.

17 **SECTION 28. Initial applicability.**

18 (1) The treatment of s. 440.972 (1) (bg) and (br) first applies to decisions by the
19 department of safety and professional services to grant or deny a license under s.
20 440.972 made on the date on which the rules promulgated under s. 440.974 (1) (ag)
21 and (ar) take effect.

22 **SECTION 29. Effective dates.** This act takes effect on the day after publication,
23 except as follows:

