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.

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

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

440.9712 (title) Registration License required; exceptions.

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

440.9712 (1) (a) Except as provided in s. 440.9715 par. (b), no individual may
act as a home inspector, use the title “home inspector,” “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 licensed under this
subchapter.

SECTION 3. 440.9712 (1m) of the statutes is amended to read:
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
5 **SECTION 4.** 440.9712 (2) of the statutes is amended to read:
6 440.9712 (2) No business entity may use, in connection with the name or
7 signature of the business entity, the title “home inspectors” to describe the business
8 entity’s services, unless each of the home inspectors employed by the business entity
9 is registered licensed under this subchapter.
10
11 **SECTION 5.** 440.9715 (title) of the statutes is repealed.
12
13 **SECTION 6.** 440.9715 (intro.) of the statutes is renumbered 440.9712 (1) (b)
14 (intro.) and amended to read:
15 440.9712 (1) (b) (intro.) A registration license is not required under this
16 subchapter for any of the following:
17
18 **SECTION 7.** 440.9715 (1) of the statutes is renumbered 440.9712 (1) (b) 1.
19
20 **SECTION 8.** 440.9715 (2) of the statutes is renumbered 440.1912 (1) (b) 2. and
21 amended to read:
22 440.1912 (1) (b) 2. An individual who constructs, repairs, or maintains
23 improvements to residential real property, if the individual conducts home
24 inspections only as part of his or her business of constructing, repairing, or
25 maintaining improvements to real property and if the individual does not describe
26 himself or herself as a registered licensed home inspector or convey the impression
27 that he or she is a registered licensed home inspector.
28
29 **SECTION 9.** 440.9715 (3) of the statutes is renumbered 440.9712 (1) (b) 3.
30
31 **SECTION 10.** 440.972 (title) and (1) (intro.), (a) and (c) of the statutes are
32 amended to read:
440.972 (title) **Registration Licensure of home inspectors.** (1) (intro.)
The department shall register grant a home inspector license to an individual under this subchapter applicant if the individual applicant does all of the following:

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

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

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

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

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

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

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

**SECTION 13.** 440.972 (2) of the statutes is amended to read:
440.972 (2) The renewal date for certificates licenses granted under this section is specified under s. 440.08 (2) (a) 38g., and the renewal fee for such certificates licenses is determined by the department under s. 440.03 (9) (a).

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

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

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

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

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

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

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

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

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

440.974 (1) (ag) Standards for instruction for purposes of the requirement under s. 440.972 (1) (bg).
(ar) Standards for field training for purposes of the requirement under s. 440.972 (1) (br).

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

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

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

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

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

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

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

440.975 (3) (cr) Includes a summary page listing and labeling, in the following order, conditions observed as defects, safety concerns, components needing repairs, components needing further evaluation, items to monitor, and maintenance items;
and including references to the page or item number in the detailed account for further information.

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

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

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

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

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

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

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

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

**SECTION 26.** 440.979 (1) of the statutes is amended to read:
440.979 (1) The number of home inspectors who are licensed under this subchapter.

SECTION 27. Nonstatutory provisions.

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

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

SECTION 28. Initial applicability.

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

SECTION 29. Effective dates. This act takes effect on the day after publication, except as follows:
(1) The treatment of s. 440.975 (3) (bm), (cm), and (cr) takes effect on September 1, 2020.

(END)