

FILED MAR 17 '03

SENATE FILE 400
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SF 96)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the regulation and licensing of home
2 inspectors.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4

SENATE FILE 400

S-3060

1 Amend Senate File 400 as follows:

2 1. Page 5, line 14, by inserting after the word
3 "company" the following: "or an insurance producer
4 for an insurance company,".

By CHARLES W. LARSON, JR.

S-3060 FILED MARCH 18, 2003

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1 Section 1. NEW SECTION. 543E.1 SHORT TITLE.

2 This chapter shall be known and may be cited as the "Iowa
3 home inspection professional licensing Act".

4 Sec. 2. NEW SECTION. 543E.2 DEFINITIONS.

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "Board" means the home inspection licensing board
8 established pursuant to section 543E.3.

9 2. "Client" means a person who engages, or seeks to
10 engage, the services of a home inspector for the purpose of
11 obtaining inspection of and the written evaluation of the
12 condition of a residential building.

13 3. "Home inspection" means an inspection and written
14 evaluation of the following components of a residential
15 building: heating system, cooling system, plumbing system,
16 electrical system, structural components, foundation, roof,
17 masonry structure, exterior and interior components, or any
18 other related residential housing component as determined by
19 the board by regulation.

20 4. "Home inspector" means a person licensed as a home
21 inspector pursuant to the provisions of this chapter who
22 performs home inspections.

23 5. "Home inspector in training" means a person licensed as
24 a home inspector in training to become a licensed home
25 inspector pursuant to the provisions of this chapter.

26 6. "Residential building" means a structure consisting of
27 from one to four family dwelling units.

28 Sec. 3. NEW SECTION. 543E.3 HOME INSPECTION LICENSING
29 BOARD -- CREATION -- MEMBERSHIP.

30 1. A home inspection licensing board is established within
31 the professional licensing and regulation division of the
32 department of commerce. The board shall consist of five
33 members each of which meets all of the following requirements:

34 a. Is a resident of the state.

35 b. Is a licensed home inspector.

1 c. Is a certified member of the Iowa association of home
2 inspectors.

3 d. Has been actively engaged in the business of making
4 home inspections in this state for at least five years.

5 e. Has performed not less than five hundred home
6 inspections during the five-year period immediately preceding
7 the member's appointment.

8 2. For a period of one year after the effective date of
9 this Act, and notwithstanding any other provisions of this
10 chapter to the contrary, the first five home inspectors
11 appointed as members of the home inspection licensing board
12 shall not be required, at the time of their first appointment,
13 to be licensed to perform home inspections.

14 3. Members of the board shall be appointed by the governor
15 subject to confirmation by the senate. Each board member
16 shall be appointed for a term of three years, except that of
17 the members first appointed, two shall serve for terms of
18 three years, two shall serve for terms of two years, and one
19 shall serve for a term of one year beginning and ending as
20 provided by section 69.19. Upon expiration of their terms,
21 members of the board shall continue to hold office until the
22 appointment and qualification of their successors. Any
23 vacancy in the membership of the board shall be filled for the
24 unexpired term in the manner provided for the original
25 appointment. A person shall not serve as a member of the
26 board for more than two consecutive terms in addition to any
27 unexpired term to which the person has been appointed.

28 4. Members of the board are entitled to receive all actual
29 expenses incurred in the discharge of their duties within the
30 limits of funds appropriated to the board. The administrator
31 of the professional licensing and regulation division of the
32 department of commerce shall hire and provide staff to assist
33 the board with administering this chapter. Each member of the
34 board may also be eligible to receive compensation as provided
35 in section 7E.6.

1 5. The board shall annually elect from among its members a
2 chairperson and a vice chairperson and may appoint a
3 secretary, who need not be a member of the board.

4 6. The board shall meet at least twice each year to
5 conduct its business and may hold additional meetings as
6 necessary to discharge its duties.

7 Sec. 4. NEW SECTION. 543E.4 POWERS OF THE BOARD.

8 The board shall do all of the following:

9 1. Administer and enforce the provisions of this chapter.

10 2. Issue and renew licenses to home inspectors and home
11 inspectors in training pursuant to this chapter.

12 3. Suspend, revoke, or fail to renew the license of a home
13 inspector or a home inspector in training pursuant to this
14 chapter.

15 4. Establish standards for the initial and continuing
16 education of home inspectors.

17 5. Adopt and publish a code of ethics, standards of
18 practice, and reporting requirements for home inspectors.

19 6. Establish and collect fees for examination, licensure,
20 renewal of licensure, and other services related to the
21 regulation and licensure of home inspectors performed by the
22 board.

23 7. Establish training and experience requirements for
24 licensure as a home inspector.

25 8. Establish rules for handling complaints from the public
26 concerning home inspectors or the performance of home
27 inspections.

28 9. Establish reporting requirements for home inspections
29 performed by home inspectors.

30 Sec. 5. NEW SECTION. 543E.5 LICENSURE REQUIRED.

31 A person shall not engage in the performance of a home
32 inspection for compensation unless licensed in accordance with
33 this chapter.

34 Sec. 6. NEW SECTION. 543E.6 ELIGIBILITY FOR LICENSURE AS
35 HOME INSPECTOR.

1 To be eligible for licensure as a home inspector, an
2 applicant shall fulfill all of the following requirements:

- 3 1. Be of good moral character.
- 4 2. Successfully complete high school or its equivalent.
- 5 3. Acquire the training and experience required by the
6 board.
- 7 4. Pass the national home inspector examination or the
8 American society of home inspectors examination. An applicant
9 may meet this requirement by passing the national home
10 inspector or American society of home inspectors examination
11 prior to the effective date of this Act.

12 5. Be engaged as a licensed inspector in training for at
13 least one year, and perform at least two hundred fifty home
14 inspections for compensation in compliance with the standards
15 of practice and code of ethics of this chapter.

16 Sec. 7. NEW SECTION. 543E.7 REQUIREMENTS FOR LICENSURE
17 AS A HOME INSPECTOR IN TRAINING.

18 To be eligible for licensure as a home inspector in
19 training, an applicant shall fulfill all of the following
20 requirements:

- 21 1. Be of good moral character.
- 22 2. Successfully complete high school or its equivalent.
- 23 3. Pass an approved course of study, as prescribed by the
24 board.
- 25 4. Perform at least ten home inspections in the presence
26 of and under the direct supervision of a home inspector.
- 27 5. Pass the national home inspector examination or the
28 American society of home inspectors examination. An applicant
29 may meet this requirement by passing the national home
30 inspector or American society of home inspectors examination
31 prior to the effective date of this Act.

32 Sec. 8. NEW SECTION. 543E.8 WHEN NOT APPLICABLE.

33 The provisions of this chapter shall not apply to:

- 34 1. A person who is employed by the government or a
35 governmental subdivision or agency and performs a home

1 inspection that is within the official duties and
2 responsibilities of the person.

3 2. A person who performs a home inspection, if the
4 inspection will be used solely by a financial institution to
5 monitor the progress of construction of a residential
6 building.

7 3. A person who is a real estate broker or salesperson as
8 defined in section 543B.3 or 543B.5 when that person is acting
9 within the scope of that person's license pursuant to chapter
10 543B.

11 4. A person who is performing home inspections for the
12 purpose of meeting the requirements of section 543E.7 in order
13 to qualify for licensure as a home inspector in training.

14 5. A person who is employed by an insurance company when
15 that person is performing a home inspection in relation to an
16 insurance policy either prior to or subsequent to a loss or a
17 claim made to the insurance company by the insured.

18 Sec. 9. NEW SECTION. 543E.9 HOME INSPECTIONS NOT
19 REQUIRED.

20 This chapter shall not be construed to require a home
21 inspection to be performed on a residential property in this
22 state.

23 Sec. 10. NEW SECTION. 543E.10 ISSUANCE OF HOME INSPECTOR
24 LICENSE -- RECIPROCITY.

25 Upon payment of a fee and submission of a written
26 application to the board, the board shall issue a home
27 inspector license to any person who holds a valid home
28 inspector license issued under the laws of another state if
29 the board determines that the other state has standards that
30 are substantially equivalent to those of this state.

31 Sec. 11. NEW SECTION. 543E.11 LICENSURE OF PRACTICING
32 HOME INSPECTORS.

33 During the first three hundred sixty days after the
34 effective date of this Act, the board shall issue, upon
35 application, a home inspector license to a person who does all

1 of the following:

2 1. Meets the requirements of section 543E.6, subsections
3 1, 2, and 4.

4 2. Has engaged in the performance of home inspections for
5 compensation for at least three years prior to the effective
6 date of this Act.

7 3. Has performed at least three hundred home inspections
8 for compensation that conform to the standards of practice and
9 code of ethics set forth by the board pursuant to this
10 chapter.

11 Sec. 12. NEW SECTION. 543E.12 FEES FOR HOME INSPECTION
12 LICENSURE.

13 1. The board shall set fees for licenses, renewals of
14 licenses, or other services provided by the board pursuant to
15 this chapter. Licenses shall be issued for a period of two
16 years and shall be renewable biennially, except that the board
17 may, in order to stagger the expiration dates of licenses
18 issued, provide that those licenses first issued or renewed
19 after the effective date of this Act shall expire on a date
20 fixed by the board.

21 2. Fees and penalties shall be established and collected
22 by the board in an amount necessary to pay the administrative
23 costs of sustaining the board and administering this chapter.
24 Licensing fees set under this chapter shall be comparable to
25 those established by other licensing boards.

26 3. All fees and penalties imposed by the board shall be
27 paid to the board and shall be transmitted to the treasurer of
28 state who shall deposit the fees and penalties in the general
29 fund of the state.

30 Sec. 13. NEW SECTION. 543E.13 DENIAL, SUSPENSION, OR
31 REVOCATION OF HOME INSPECTOR LICENSE.

32 The board may deny, suspend, or revoke a home inspector
33 license or a home inspector in training license upon a
34 determination by the board that the licensee has done any of
35 the following:

1 1. Failed to fulfill any of the requirements in section
2 543E.6.

3 2. Disclosed information concerning the results of a home
4 inspection without the approval of a client or the client's
5 representatives.

6 3. Accepted compensation from more than one client for the
7 same service without the consent of all clients for whom the
8 service is being performed.

9 4. Accepted commissions or allowances, directly or
10 indirectly, from other parties dealing with a client of the
11 licensee in connection with work for which the licensee is
12 responsible.

13 5. Failed to promptly disclose information to a client
14 about a business interest of the licensee that might
15 constitute a conflict of interest for a licensee in performing
16 a home inspection for a client.

17 Sec. 14. NEW SECTION. 543E.14 PRACTICE OF ARCHITECTURE
18 OR ENGINEERING PROHIBITED.

19 A person licensed as a home inspector pursuant to this
20 chapter shall not engage in the practice of architecture or
21 the practice of professional engineering.

22 Sec. 15. NEW SECTION. 543E.15 ERRORS AND OMISSIONS --
23 INSURANCE REQUIRED.

24 1. Every licensee under this chapter who is engaged in the
25 performance of home inspections shall secure, maintain, and
26 file with the board proof of error and omissions insurance in
27 an amount of at least five hundred thousand dollars per
28 occurrence.

29 2. Errors and omissions insurance obtained by a licensee
30 in compliance with subsection 1 shall contain a provision that
31 cancellation or failure to renew the insurance shall not be
32 effective without at least ten days' notice of intention to
33 cancel or not renew the insurance given to the board in
34 writing by the licensee.

35 Sec. 16. NEW SECTION. 543E.16 LIMITATION OF ACTIONS.

1 1. An action to recover damages arising out of an act or
2 omission of a home inspector in connection with the
3 performance of a home inspection can only be commenced within
4 one year from the date the home inspection was performed.

5 2. An action to recover damages arising out of an act or
6 omission of a home inspector in connection with the
7 performance of a home inspection shall only be brought by the
8 client for whom the home inspection was performed.

9 Sec. 17. NEW SECTION. 543E.17 RULES.

10 The board shall adopt rules pursuant to chapter 17A and
11 consistent with this chapter for the administration and
12 enforcement of this chapter and may prescribe forms to be used
13 under this chapter.

14 EXPLANATION

15 This bill provides for the regulation and licensing of home
16 inspectors of residential real estate consisting of from one
17 to four family dwelling units. The bill creates a home
18 inspection licensing board within the professional licensing
19 and regulation division of the department of commerce whose
20 members are appointed by the governor subject to confirmation
21 by the senate.

22 The bill provides that the home inspection licensing board
23 is responsible for the issuance and renewal and suspension and
24 revocation of home inspector licenses; for adopting ethics,
25 standards of practice, and reporting requirements for home
26 inspectors; for establishing and collecting fees for
27 examination, licensure, and other services related to the
28 regulation and licensure of home inspectors performed by the
29 board; for establishing licensure requirements; and for
30 establishing complaint procedures for handling complaints
31 about home inspections from the public.

32 The bill requires that a person who performs home
33 inspections for compensation must be licensed in accordance
34 with the bill. The bill sets forth eligibility requirements
35 for licensure as a home inspector or as a home inspector in

1 training.

2 The bill specifies that the requirements of the bill are
3 not applicable to government employees performing home
4 inspections within their official duties, persons performing
5 home inspections for a financial institution to monitor new
6 house construction, persons acting as real estate brokers or
7 salespersons, persons performing home inspections in order to
8 qualify for licensure as a home inspector in training, or
9 insurance company employees performing home inspections
10 relating to a policy claim.

11 The bill provides for reciprocity with other states that
12 issue home inspector licenses pursuant to similar licensing
13 requirements. The bill also provides that practicing home
14 inspectors for at least three years prior to the effective
15 date of the bill can be issued licenses during the first 360
16 days after the bill's effective date by meeting certain
17 conditions.

18 The bill sets forth the conditions under which the board
19 may deny, suspend, or revoke a home inspector license or home
20 inspector in training license. The bill also prohibits a
21 licensed home inspector from practicing architecture or
22 professional engineering.

23 The bill requires that a licensee under the chapter obtain
24 errors and omissions insurance and provide proof of such
25 insurance to the home inspection licensing board.

26 The bill requires actions to recover damages arising out of
27 an act or omission of a home inspector to be filed within one
28 year from when the home inspection was performed by the client
29 for whom the home inspection was performed.

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