

Senate File 2256 - Introduced

SENATE FILE 2256

BY JOCHUM

A BILL FOR

1 An Act establishing a home inspector licensing program,
2 establishing a home inspector examining board, providing
3 civil and criminal penalties, and including effective date
4 and applicability provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 104.1 Title.

2 This chapter may be known and cited as the "*Iowa Home*
3 *Inspector Licensing Act*".

4 Sec. 2. NEW SECTION. 104.2 Definitions.

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

7 1. "*Applicant*" means a person who applies to the board for
8 a license under this chapter.

9 2. "*Board*" means the home inspector examining board as
10 established pursuant to section 104.3.

11 3. "*Department*" means the Iowa department of public safety.

12 4. "*Governmental subdivision*" means any city, county, or
13 combination thereof.

14 5. "*Home inspection*" means the examination and evaluation
15 of the exterior and interior components of residential real
16 property, which includes the inspection of any two or more
17 of the following components of residential real property in
18 connection with or to facilitate the sale, lease, or other
19 conveyance of, or the proposed sale, lease, or other conveyance
20 of, residential real property:

21 a. Heating, ventilation, or air conditioning system.

22 b. Plumbing system.

23 c. Electrical system.

24 d. Structural composition.

25 e. Foundation.

26 f. Roof.

27 g. Masonry structure.

28 h. Any other residential real property component established
29 by rule under this chapter.

30 6. "*Home inspector*" means a person who, for compensation
31 either direct or indirect, performs home inspections.

32 7. "*Residential real property*" means real property that is
33 an owner-occupied single-family or two-family dwelling located
34 in this state and occupied or used or intended to be occupied
35 or used for residential purposes, including an interest in any

1 real property covered under chapter 499B.

2 Sec. 3. NEW SECTION. 104.3 Home inspector examining board.

3 1. A home inspector examining board is created within the
4 Iowa department of public safety.

5 2. The board shall be comprised of nine members as follows:

6 a. The commissioner of public safety or the commissioner's
7 designee.

8 b. The director of public health or the director's designee.

9 c. The state building code commissioner or the
10 commissioner's designee.

11 d. The state fire marshal or the fire marshal's designee.

12 e. One plumbing inspector.

13 f. One mechanical inspector.

14 g. One electrical inspector.

15 h. One contractor who primarily works in rural areas.

16 i. One contractor who primarily works in urban areas.

17 The board members enumerated in paragraphs "e" through
18 "i", shall be appointed by the governor and are subject to
19 confirmation by the senate.

20 3. Members enumerated in subsection 2, paragraphs "e"
21 through "i", shall serve three-year staggered terms and
22 shall serve no more than three full terms. A vacancy in the
23 membership of the board shall be filled in the same manner as
24 the original appointment.

25 4. If a person who has been appointed to serve on the board
26 has ever been disciplined by the board, all board complaints
27 and statements of charges, settlement agreements, findings of
28 fact, and orders pertaining to the disciplinary action shall be
29 made available to the senate committee to which the appointment
30 is referred at the committee's request before the full senate
31 votes on the person's appointment.

32 5. The board shall organize annually and shall select a
33 chairperson and a secretary from its membership. A quorum
34 shall consist of a majority of the members of the board.

35 6. Members of the board shall receive actual expenses for

1 their duties as a member of the board. Each member of the board
2 may also be eligible to receive compensation as provided in
3 section 7E.6.

4 Sec. 4. NEW SECTION. **104.4 Rules.**

5 The board shall adopt all rules necessary to carry out the
6 licensing and other provisions of this chapter.

7 Sec. 5. NEW SECTION. **104.5 Standards of practice.**

8 1. All persons licensed under this chapter shall comply
9 with the standards of practice established by the board by rule
10 pursuant to chapter 17A.

11 2. Standards of practice may include recognized standards
12 and codes to be used in a home inspection. The board shall
13 consider nationally recognized standards and codes prior to
14 adopting rules for the standards of practice.

15 3. The board's standards of practice shall include all of
16 the following:

17 a. Requirements for home inspection reports. A home
18 inspection report is a written evaluation prepared and issued
19 by a home inspector upon completion of a home inspection.

20 b. Requirements for the retention of records by licensed
21 home inspectors.

22 Sec. 6. NEW SECTION. **104.6 Applications for examinations.**

23 1. Any person desiring to take an examination for a license
24 issued pursuant to this chapter shall file an application
25 with the board at least fifteen days before a scheduled
26 examination, on a form provided by the board. The application
27 shall be signed by the applicant and shall be accompanied by
28 the examination fee and such documents and affidavits as are
29 necessary to show the eligibility of the applicant to take the
30 examination. The board may require that a recent photograph of
31 the applicant be attached to the application.

32 2. The form of the application shall be in accordance with
33 the rules of the department and the board.

34 Sec. 7. NEW SECTION. **104.7 Examinations.**

35 1. The board shall give public notice of the time and place

1 of examinations to be held under this chapter. Such notice
2 shall be given in such manner as the board deems necessary to
3 provide adequate time to allow applicants for licensure to
4 comply with the provisions of this chapter.

5 2. Examinations for the licenses which may be issued
6 pursuant to this chapter shall be conducted by the board.
7 Examinations shall be conducted at least two times per year
8 at such time and location as the department, in consultation
9 with the board, may fix. Applicants who fail to pass an
10 examination shall be allowed to retake the examination at
11 the next scheduled time. If an applicant fails twice to
12 pass an examination, any subsequent opportunities to take
13 the examination shall be available only at the discretion
14 of the board. An applicant who has failed an examination
15 may request in writing information from the board concerning
16 the examination grade and subject areas or questions that
17 the applicant failed to answer correctly, except that if the
18 board administers a uniform, standardized examination, the
19 board shall only be required to provide to the applicant the
20 examination grade and such other information concerning the
21 applicant's examination results that are available to the
22 board.

23 3. An examination shall be evaluated in accordance with
24 the rules of the board. After each examination, the board
25 shall certify the names of the successful applicants to the
26 department in the manner prescribed by the department. The
27 department shall then issue the proper license and make the
28 required entry in the registry pursuant to section 104.14.

29 4. All matters connected with an examination for a license
30 shall be filed with the department and preserved for such
31 period of time as specified by the state records commission as
32 a part of the records of the department. The records, except
33 for records which reveal the performance on an examination of
34 an identified candidate, shall be open to public inspection.

35 Sec. 8. NEW SECTION. 104.8 Examination rules.

1 The board shall adopt rules relating to all of the following:

2 1. The qualifications required for applicants seeking to
3 take examinations.

4 2. The denial of applicants seeking to take examinations.

5 3. The conducting of examinations.

6 4. The grading of examinations and passing upon the
7 technical qualifications of applicants, as shown by such
8 examinations.

9 5. The minimum scores required for passing examinations.

10 6. The selection of nationally recognized vendors providing
11 examinations.

12 Sec. 9. NEW SECTION. 104.9 Examination assistance.

13 Upon the request of the board, the department shall assign
14 one or more employees of the department to assist with
15 conducting an examination. A member of the board shall be
16 present and shall have charge of all candidates during the
17 examination. An employee assigned by the department shall
18 perform such duties to assist with the examination process
19 as the board may direct. If the duties of such employee are
20 performed away from the seat of government, the employee shall
21 receive necessary travel expenses which shall be reimbursed by
22 the board for costs incurred.

23 Sec. 10. NEW SECTION. 104.10 Fees.

24 1. The board shall set the fees for the examination of all
25 applicants, by rule, which fees shall be based upon the cost of
26 administering the examinations.

27 2. The board shall set the license fees and renewal fees for
28 all licenses issued pursuant to this chapter, by rule, based
29 upon the costs of sustaining the board and the actual costs of
30 licensing.

31 3. All fees collected under this chapter and penalties
32 collected under section 104.26 shall be retained by the board.
33 The moneys retained by the board shall be used for any of the
34 board's duties under this chapter, including but not limited
35 to the addition of full-time equivalent positions for program

1 services and investigations. Revenues retained by the board
2 pursuant to this section shall be considered repayment receipts
3 as defined in section 8.2. Notwithstanding section 8.33,
4 moneys retained by the board pursuant to this section are not
5 subject to reversion to the general fund of the state.

6 4. Commencing July 2012 and every biennium thereafter, the
7 board shall review its revenue, including amounts generated
8 from license fees set pursuant to this chapter, and its
9 expenses for purposes of reevaluating its fee structures.

10 Sec. 11. NEW SECTION. 104.11 License required — exception.

11 1. A person shall not perform a home inspection without
12 obtaining a license issued by the board.

13 2. A person shall not engage in the business of home
14 inspections unless at all times a licensed home inspector
15 is employed by the person and is actively in charge of
16 performing the home inspections. An individual who performs
17 home inspections pursuant to a business operated as a sole
18 proprietorship shall be a licensed home inspector.

19 3. The licensing requirements of this chapter shall not
20 apply to an employee of any unit of state or local government,
21 including but not limited to cities, counties, or school
22 corporations, performing home inspections while acting within
23 the scope of the government employee's employment.

24 Sec. 12. NEW SECTION. 104.12 Form of license — term of
25 license.

26 1. a. A home inspector license shall be in the form of a
27 certificate under the seal of the department, signed by the
28 Iowa director of public safety, and shall be issued in the name
29 of the board. The license number shall be noted on the face of
30 the license.

31 b. In addition to the certificate, the board shall provide
32 each licensee with a wallet-sized licensing identification
33 card.

34 2. A license issued pursuant to this chapter shall be issued
35 for a term of two years.

1 Sec. 13. NEW SECTION. 104.13 License presumptive evidence.

2 A license issued under this chapter shall be presumptive
3 evidence of the right of the holder to perform home inspections
4 in this state.

5 Sec. 14. NEW SECTION. 104.14 Registry of licenses.

6 The name, location, license number, and date of issuance
7 of the license of each person to whom a license has been
8 issued shall be entered in a registry kept in the office of
9 the department to be known as the home inspector registry.
10 The registry may be electronic and shall be open to public
11 inspection. However, the licensee's home address, home
12 telephone number, and other personal information as determined
13 by rule shall be confidential.

14 Sec. 15. NEW SECTION. 104.15 Change of residence.

15 If a person licensed to perform home inspections under this
16 chapter changes the person's residence or place of practice,
17 the person shall so notify the board.

18 Sec. 16. NEW SECTION. 104.16 Preemption of local licensing
19 requirements.

20 1. The provisions of this chapter regarding the licensing of
21 home inspectors shall supersede and preempt all home inspector
22 licensing provisions of all governmental subdivisions. On
23 and after the effective date of this Act, all home inspector
24 licensing provisions promulgated by any governmental
25 subdivision shall be null and void and of no further force and
26 effect, and a governmental subdivision may not prohibit a home
27 inspector licensed pursuant to this chapter from performing
28 services for which that person is licensed.

29 2. Nothing in this chapter shall prohibit a governmental
30 subdivision from assessing and collecting inspection fees
31 related to inspections performed by a licensed home inspector.

32 Sec. 17. NEW SECTION. 104.17 Qualifications and
33 requirements.

34 1. The board shall adopt, by rule, general qualifications
35 for licensure. The board may consider the past felony record

1 of an applicant only if the felony conviction relates directly
2 to the practice of home inspections. References may be
3 required as part of the licensing process.

4 2. An applicant for a home inspector license shall be
5 at least twenty-one years of age at the time the applicant
6 completes the examination under this chapter.

7 3. Notwithstanding section 17A.9A, the board shall waive
8 the written examination requirements established by the board
9 if the applicant meets either of the following requirements:

10 a. The applicant has previously passed a written examination
11 which the board deems to be substantially similar to the
12 licensing examination otherwise required by the board to obtain
13 a license and the applicant has completed at least eight
14 classroom hours of continuing education in courses or seminars
15 approved by the board within the two-year period immediately
16 preceding the date of the applicant's license application.

17 b. The applicant can demonstrate to the satisfaction of the
18 board that the applicant has five or more years of experience
19 prior to the effective date of this Act in home inspection
20 business, which experience is of a nature that the board
21 deems to be sufficient to demonstrate continuous professional
22 competency consistent with that expected of an individual who
23 passes the applicable licensing examination which the applicant
24 would otherwise be required to pass.

25 Sec. 18. NEW SECTION. 104.18 Insurance and surety bond
26 requirements.

27 1. An applicant for a license or renewal of an active
28 license shall provide evidence of a public liability insurance
29 policy and surety bond in an amount determined sufficient by
30 the board by rule.

31 2. If the applicant performs home inspections individually
32 through a business conducted as a sole proprietorship, the
33 applicant shall personally obtain the insurance and surety
34 bond required by this section. If the applicant is engaged
35 in the home inspection business as an employee or owner of a

1 legal entity, the insurance and surety bond required by this
2 section shall be obtained by the entity and shall cover all
3 home inspections performed by the entity.

4 3. The insurance and surety bond shall be written by an
5 entity licensed to do business in this state and each licensed
6 home inspector shall maintain on file with the department a
7 certificate evidencing that the insurance or surety bond shall
8 not be canceled without the entity first giving fifteen days
9 written notice to the department.

10 Sec. 19. NEW SECTION. 104.19 **Renewal and reinstatement of**
11 **licenses — fees and penalties — continuing education.**

12 1. A license issued under this chapter may be renewed as
13 provided by rule adopted by the board upon application by the
14 licensee pursuant to this section. A renewal license shall be
15 displayed in connection with the original license.

16 2. The department shall notify each licensee by mail at
17 least sixty days prior to the expiration of a license.

18 3. Applications for renewal shall be made in writing to the
19 department accompanied by the required renewal licensing fee at
20 least thirty days prior to the expiration date of the license.

21 4. Failure to renew a license within a reasonable time after
22 the expiration of the license shall not invalidate the license
23 for purposes of renewal or reinstatement, but a penalty may be
24 assessed as adopted by rule, in addition to the license renewal
25 fee, to allow reinstatement of the license.

26 5. *a.* A licensee who allows a license to lapse for a
27 period of one month or less may reinstate and renew the license
28 without examination upon payment of the applicable renewal and
29 reinstatement fees and any penalties if assessed.

30 *b.* A licensee who allows a license to lapse for a period of
31 time greater than one month is required to retake and pass the
32 applicable licensing examination, and pay the license renewal
33 fee and penalty if assessed, in addition to the examination
34 fee, in order to obtain reinstatement and renewal of that
35 person's license.

1 6. The board shall establish continuing education
2 requirements pursuant to section 272C.2. The basic continuing
3 education requirement for renewal of a license shall be the
4 completion, during the immediately preceding license term, of
5 the number of classroom hours of instruction required by the
6 board in courses or seminars which have been approved by the
7 board. The board shall require at least eight classroom hours
8 of instruction during each two-year licensing term.

9 Sec. 20. NEW SECTION. 104.20 **Reciprocal licenses.**

10 The board may license without examination a nonresident
11 applicant who is licensed under home inspector licensing
12 statutes of another state having similar licensing requirements
13 as those set forth in this chapter and rules adopted under this
14 chapter if the other state grants the same reciprocal licensing
15 privileges to residents of Iowa who have obtained Iowa home
16 inspector licenses under this chapter. The department and the
17 board shall adopt the necessary rules, not inconsistent with
18 the law, for carrying out the reciprocal licensing relations
19 with other states.

20 Sec. 21. NEW SECTION. 104.21 **Grounds for denial,
21 revocation, or suspension of license.**

22 A license to practice as a home inspector may be revoked
23 or suspended, or an application for licensure may be denied,
24 pursuant to procedures established pursuant to chapter 272C
25 by the board, or the licensee may be otherwise disciplined in
26 accordance with that chapter, when the licensee commits any of
27 the following acts or offenses:

- 28 1. Fraud in procuring a license.
- 29 2. Professional incompetence.
- 30 3. Knowingly making misleading, deceptive, untrue, or
31 fraudulent misrepresentations in the practice of the profession
32 or engaging in unethical conduct or practice harmful or
33 detrimental to the public. Proof of actual injury need not be
34 established.
- 35 4. Conviction of a felony related to the profession or

1 occupation of the licensee or the conviction of any felony
2 that would affect the licensee's ability to practice within
3 the profession. A copy of the record of conviction or plea of
4 guilty shall be conclusive evidence of such conviction.

5 5. Fraud in representations as to skill or ability.

6 6. Use of untruthful or improbable statements in
7 advertisements.

8 7. Willful or repeated violations of this chapter.

9 8. Aiding and abetting a person who is not licensed pursuant
10 to this chapter in that person's pursuit of an unauthorized and
11 unlicensed home inspection practice.

12 9. Failure to meet the commonly accepted standards of
13 professional competence.

14 10. Any other such grounds as established by rule by the
15 board.

16 Sec. 22. NEW SECTION. 104.22 Jurisdiction of revocation and
17 suspension proceedings.

18 The board shall have exclusive jurisdiction of all
19 proceedings to revoke or suspend a license issued pursuant
20 to this chapter. The board may initiate proceedings under
21 this chapter or chapter 272C, following procedures set out in
22 section 272C.6, either on its own motion or on the complaint of
23 any person. Before scheduling a hearing, the board may request
24 the department to conduct an investigation into the charges
25 to be addressed at the board hearing. The department shall
26 report its findings to the board. The board, in connection
27 with a proceeding under this chapter, may issue subpoenas to
28 compel attendance and testimony of witnesses and the disclosure
29 of evidence and may request the attorney general to bring an
30 action to enforce the subpoena.

31 Sec. 23. NEW SECTION. 104.23 Notice and default.

32 1. A written notice stating the nature of the charge or
33 charges against a licensee and the time and place of the
34 hearing before the board on the charges shall be served on the
35 licensee, either personally or by mailing a copy by certified

1 mail to the last known address of the licensee, not less than
2 thirty days prior to the date of the hearing.

3 2. If, after having been served with the notice of hearing,
4 the licensee fails to appear at the hearing, the board may
5 proceed to hear evidence against the licensee and may enter
6 such order as is justified by the evidence.

7 Sec. 24. NEW SECTION. 104.24 Advertising — violations —
8 criminal penalties.

9 1. Only a person who is duly licensed pursuant to this
10 chapter may advertise the fact that the person is licensed as a
11 home inspector by the state of Iowa.

12 2. All written advertisements distributed in this state by a
13 person who is engaged in the business of home inspections shall
14 include the listing of at least one home inspector's license
15 number. A licensed home inspector shall not allow the home
16 inspector's license number to be used in connection with the
17 advertising for more than one person engaged in the business of
18 home inspections.

19 3. A person who fraudulently claims to be a licensed home
20 inspector pursuant to this chapter, either in writing, cards,
21 signs, circulars, advertisements, or other communications, is
22 guilty of a simple misdemeanor.

23 4. In order to be entitled to use a home inspector's license
24 number, the home inspector must be employed by the person in
25 whose name the business of inspecting homes is being performed.
26 A person who fraudulently lists a home inspector's license
27 number in connection with that person's advertising or falsely
28 displays a home inspector's license number is guilty of a
29 simple misdemeanor.

30 Sec. 25. NEW SECTION. 104.25 Injunction.

31 A person performing home inspections without a license
32 issued under this chapter may be restrained by injunction.

33 Sec. 26. NEW SECTION. 104.26 Civil penalty.

34 1. In addition to any other penalties provided for in this
35 chapter, the board may, by order, impose a civil penalty, not

1 to exceed five thousand dollars per offense, upon a person
2 violating any provision of this chapter. Each day of a
3 continued violation constitutes a separate offense. Before
4 issuing an order under this section, the board shall provide
5 the person written notice and the opportunity to request a
6 hearing on the record. The hearing must be requested within
7 thirty days of the issuance of the notice.

8 2. A person aggrieved by the imposition of a civil penalty
9 under this section may seek judicial review in accordance with
10 section 17A.19.

11 3. If a person fails to pay a civil penalty within thirty
12 days after entry of an order under subsection 1 or, if the
13 order is stayed pending an appeal, within ten days after the
14 court enters a final judgment in favor of the board, the board
15 shall notify the attorney general. The attorney general may
16 commence an action to recover the amount of the penalty,
17 including reasonable attorney fees and costs.

18 4. An action to enforce an order under this section may be
19 joined with an action for an injunction under section 104.25.

20 5. Civil penalties collected under this section shall be
21 deposited in the same account that fees under section 104.10
22 are deposited.

23 Sec. 27. NEW SECTION. 104.27 Enforcement.

24 The board shall enforce the provisions of this chapter.
25 Every licensee and member of the board shall furnish the
26 board with such evidence as the licensee or member may have
27 relative to any alleged violation of this chapter that is being
28 investigated.

29 Sec. 28. NEW SECTION. 104.28 Report of violators.

30 Each licensee and each member of the board shall report to
31 the department the name of any person who is practicing as
32 a home inspector without a license issued pursuant to this
33 chapter, according to the knowledge or reasonable belief of the
34 person making the report. The opening of an office or place of
35 business for the purpose of providing any services for which

1 a license is required by this chapter, the announcing to the
2 public in any way the intention to provide any such service,
3 the use of any professional designation, or the use of any
4 sign, card, circular, device, vehicle, or advertisement, as a
5 provider of any such services shall be prima facie evidence of
6 engaging in the practice of home inspections.

7 Sec. 29. NEW SECTION. 104.29 Attorney general.

8 Upon request of the board, the attorney general shall
9 institute in the name of the state the proper proceedings
10 against any person charged by the department with violating any
11 provision of this chapter.

12 Sec. 30. Section 272C.1, subsection 6, Code Supplement
13 2009, is amended by adding the following new paragraph:

14 NEW PARAGRAPH. *ag.* The home inspector examining board,
15 created pursuant to chapter 104.

16 Sec. 31. Section 272C.3, subsection 2, paragraph a, Code
17 Supplement 2009, is amended to read as follows:

18 *a.* Revoke a license, or suspend a license either until
19 further order of the board or for a specified period, upon any
20 of the grounds specified in section 100D.5, 104.21, 105.22,
21 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13,
22 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15, or
23 602.3203 or chapter 151 or 155, as applicable, or upon any
24 other grounds specifically provided for in this chapter
25 for revocation of the license of a licensee subject to the
26 jurisdiction of that board, or upon failure of the licensee
27 to comply with a decision of the board imposing licensee
28 discipline.

29 Sec. 32. Section 272C.4, subsection 6, Code Supplement
30 2009, is amended to read as follows:

31 6. Define by rule acts or omissions that are grounds for
32 revocation or suspension of a license under section 100D.5,
33 104.21, 105.22, 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24,
34 169.13, 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15,
35 or 602.3203 or chapter 151 or 155, as applicable, and to define

1 by rule acts or omissions that constitute negligence, careless
2 acts, or omissions within the meaning of section 272C.3,
3 subsection 2, paragraph "b", which licensees are required to
4 report to the board pursuant to section 272C.9, subsection 2.

5 Sec. 33. Section 272C.5, subsection 2, paragraph c, Code
6 Supplement 2009, is amended to read as follows:

7 c. Shall state whether the procedures are an alternative
8 to or an addition to the procedures stated in sections 100D.5,
9 104.22, 104.23, 105.23, 105.24, 148.6 through 148.9, 152.10,
10 152.11, 153.33, 154A.23, 542.11, 542B.22, 543B.35, 543B.36, and
11 544B.16.

12 Sec. 34. Section 558A.4, subsection 2, Code 2009, is amended
13 to read as follows:

14 2. The disclosure statement may include a report or written
15 opinion prepared by a home inspector licensed under chapter 104
16 or a person qualified to make judgment based on education or
17 experience, as provided by rules adopted by the commission,
18 including but not limited to a land surveyor licensed pursuant
19 to chapter 542B, a geologist, a structural pest control
20 operator licensed pursuant to section 206.6, or a building
21 contractor. The report or opinion on a matter within the scope
22 of the home inspector's or person's practice, profession, or
23 expertise shall satisfy the requirements of this section or
24 rules adopted by the commission regarding that matter required
25 to be disclosed. If the report or opinion is in response
26 to a request made for purposes of satisfying the disclosure
27 statement, the report or opinion shall indicate which part of
28 the disclosure statement the report or opinion satisfies.

29 Sec. 35. Section 558A.6, subsection 2, Code 2009, is amended
30 to read as follows:

31 2. The home inspector or person submitting a report or
32 opinion within the scope of the home inspector's or person's
33 practice, profession, or expertise, as provided in section
34 558A.4, for purposes of satisfying the disclosure statement,
35 shall not be liable under this chapter for any matter other

1 than a matter within the home inspector's or person's practice,
2 profession, or expertise, and which is required by the
3 disclosure statement, unless the home inspector or person
4 failed to use care ordinary in the home inspector's or person's
5 profession, practice, or area of expertise in preparing the
6 information.

7 Sec. 36. EFFECTIVE DATE. This Act takes effect July 1,
8 2011.

9

EXPLANATION

10 This bill establishes a home inspector licensing program in
11 new Code chapter 104. The bill supersedes and preempts all
12 licensing requirements of government subdivisions that relate
13 to home inspections, as defined in the bill.

14 The bill establishes a home inspector examining board to
15 test, license, and discipline persons licensed under the bill.
16 The board is comprised of nine members, including the heads of
17 the department of public safety and the department of public
18 health, the state building code commissioner, the state fire
19 marshal, and five members from various industries related to
20 home construction. The board is created as part of the Iowa
21 department of public safety, which is required to provide staff
22 support for certain board operations. The board is required
23 to adopt all rules necessary to carry out the board's duties
24 and is authorized to establish standards of practice for home
25 inspectors by rule.

26 The bill specifies certain requirements for home inspector
27 license applications, examinations administered by the board,
28 license documents, and the home inspector license registry.
29 The bill imposes restrictions on the business of home
30 inspections without a license, imposes insurance requirements
31 for licensees, and authorizes the imposition and collection of
32 examination and license fees by the board.

33 The bill requires the board to adopt, by rule, general
34 qualifications for licensure and requires that an applicant for
35 a home inspector license be at least 21 years old at the time

1 the applicant takes the licensing examination. The bill also
2 identifies the grounds for denial, revocation, or suspension
3 of a license, specifies the conditions under which the board
4 may waive the written examination requirement, establishes
5 requirements and procedures for the renewal and reinstatement
6 of licenses, and directs the board to establish continuing
7 education requirements for licensees.

8 The bill limits advertising for home inspection services to
9 those persons who are licensed or those businesses who employ a
10 licensed home inspector. The bill provides for the issuance of
11 reciprocal licenses if certain conditions are met.

12 The bill specifies the enforcement authority of the board
13 and authorizes the board to impose a civil penalty, not to
14 exceed \$5,000 per offense upon a person who violates any
15 provision of new Code chapter 104. The bill also provides that
16 any violation of new Code chapter 104 is a simple misdemeanor
17 for a first offense, and a serious misdemeanor for any
18 subsequent offense.

19 A simple misdemeanor is punishable by confinement for no
20 more than 30 days or a fine of at least \$65 but not more than
21 \$625 or by both. A serious misdemeanor is punishable by
22 confinement for no more than one year and a fine of at least
23 \$315 but not more than \$1,875.

24 The bill takes effect July 1, 2011.