

Senate File 460 - Introduced

SENATE FILE 460
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1144)

A BILL FOR

1 An Act relating to home inspections, including persons authorized
2 to perform home inspections and requirements for independent
3 home inspection reports, providing penalties, and making
4 penalties applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 558A.4, subsection 2, paragraph a, Code
2 2025, is amended to read as follows:

3 a. A transferor subject to the requirements of section
4 558.70 shall recommend in writing that the transferee obtain an
5 independent home inspection report from a person authorized to
6 issue an independent home inspection report pursuant to section
7 558A.4A, subsection 1, to provide full and complete information
8 as required to be disclosed under this section and under rules
9 adopted by the real estate commission pursuant to section 543B.9.

10 Sec. 2. NEW SECTION. 558A.4A Independent home inspection
11 report — persons authorized to issue.

12 1. A person shall not issue an independent home inspection
13 report as provided in section 558A.4, subsection 2, unless the
14 person is a home inspector, an architect licensed pursuant to
15 chapter 544A, or a professional engineer licensed pursuant to
16 chapter 542B.

17 2. A home inspector shall conduct a home inspection with the
18 degree of care that a reasonably prudent home inspector would
19 exercise, which shall be based on the standards of practice and
20 code of ethics of a national home inspectors association.

21 3. a. A home inspector, employer of a home inspector, or a
22 person who controls or has a financial interest in the employer
23 of a home inspector, who does any of the following commits an
24 unlawful practice under section 714.16, subsection 2, paragraph
25 "a":

26 (1) Performs or offers to perform for an additional fee any
27 repairs to a structure with respect to which the home inspector
28 has prepared a home inspection report within the preceding twelve
29 months. This subparagraph does not apply to remediation for
30 radon or wood-destroying insects.

31 (2) Inspects for a fee any property in which the home
32 inspector, the employer of the home inspector, or person who
33 controls or has a financial interest in the employer of a home
34 inspector has an interest in the transfer of the property,
35 including but not limited to receipt of a commission as a

1 licensee under chapter 543B, unless the interest in the transfer
2 of the property is disclosed in writing to the buyer before
3 the home inspection is performed and the buyer signs an
4 acknowledgment of receipt of the disclosure.

5 (3) Offers or delivers a commission, referral fee, or
6 kickback to the seller of the inspected property or to a licensee
7 under chapter 543B for either or both of the seller and the buyer
8 for the referral of business to the home inspector, the employer
9 of the home inspector, or person who controls or has a financial
10 interest in the employer of a home inspector.

11 (4) Accepts an engagement to perform a home inspection or to
12 prepare a home inspection report in which the engagement or the
13 fee payable for the inspection is contingent upon the conclusions
14 in the report, preestablished or prescribed findings, or the
15 closing of the transaction.

16 b. Paragraph "a" does not apply to a home warranty company
17 that is affiliated with or retains a home inspector if the home
18 warranty company performs repairs pursuant to claims made under a
19 home warranty contract.

20 c. In addition to any remedies available for a violation
21 of section 714.16, subsection 2, paragraph "a", the owner of a
22 property on which repairs are performed in violation of paragraph
23 "a", subparagraph (1), shall be entitled to a full refund of any
24 moneys paid for those repairs, and any promissory note or other
25 obligation to pay given to the person performing those repairs
26 shall be void.

27 4. An independent home inspection report must be in writing
28 and must include all of the following:

29 a. A description of the scope of the inspection, including
30 an identification of the structural elements, systems, and
31 subsystems covered by the report.

32 b. A description of any material defects noted during the
33 inspection, along with any recommendation that certain experts
34 be retained to determine the extent of the defects and any
35 corrective action that should be taken. A material defect that

1 poses an unreasonable risk to people on the property must be
2 conspicuously identified as such.

3 c. All of the following statements, set forth conspicuously:

4 (1) "A home inspection is intended to assist in evaluation
5 of the overall condition of the dwelling. The inspection is
6 based on observation of the visible and apparent condition of the
7 structure and its components on the date of inspection."

8 (2) "The results of this home inspection are not intended
9 to make any representation regarding the presence or absence of
10 latent or concealed defects that are not reasonably ascertainable
11 in a competently performed home inspection. No warranty or
12 guarantee is expressed or implied."

13 (3) "If the person conducting your home inspection is not a
14 licensed structural engineer or other professional whose license
15 authorizes the rendering of an opinion as to the structural
16 integrity of a building or its other component parts, you may
17 be advised to seek a professional opinion as to any defects or
18 concerns mentioned in the report."

19 (4) "The home inspection report is not to be construed as an
20 appraisal and may not be used as such for any purpose."

21 5. Except as otherwise required by law, a home inspector
22 shall not deliver a home inspection report to any person other
23 than the client of the home inspector without the client's
24 consent. The seller shall have the right, upon request, to
25 receive without charge a copy of a home inspection report from
26 the person for whom it was prepared.

27 6. A home inspector shall not express either orally or in
28 writing an estimate of the cost to repair a defect found during
29 a home inspection, except that such an estimate may be included
30 in an independent home inspection report if all of the following
31 apply:

32 a. The report identifies the source of the estimate.

33 b. The estimate is stated as a range of costs.

34 c. The report states that the parties should consider
35 obtaining an estimate from a contractor who performs the type of

1 repair involved.

2 7. A home inspector shall maintain insurance against errors
3 and omissions in the performance of a home inspection and general
4 liability, with coverages of not less than one hundred thousand
5 dollars per occurrence and five hundred thousand dollars in the
6 aggregate, and with deductibles of not more than two thousand
7 five hundred dollars.

8 a. Except as provided in paragraph "b", a home inspector
9 shall maintain insurance under this subsection for at least one
10 year after the latest home inspection report the home inspector
11 delivers.

12 b. Paragraph "a" does not apply to a home inspection report
13 that was delivered prior to the effective date of this Act.

14 8. A buyer shall be entitled to rely in good faith, without
15 independent investigation, on a written representation that a
16 person is a home inspector, an architect licensed pursuant to
17 chapter 544A, or a professional engineer licensed pursuant to
18 chapter 542B.

19 9. A contract with a person to provide a home inspection
20 shall not limit the liability of the person providing the home
21 inspection for gross negligence or willful misconduct, or waive
22 or modify a provision of this section. However, the scope of a
23 home inspection, the services to be performed, and the systems
24 and conditions to be inspected or excluded from inspection may
25 be defined by a contract between the person providing the home
26 inspection and the client.

27 10. a. A home inspector who does not maintain insurance in
28 violation of subsection 7 or who falsely represents that the
29 person is a home inspector, an architect licensed pursuant to
30 chapter 544A, or a professional engineer licensed pursuant to
31 chapter 542B, is guilty of the following:

32 (1) For a first offense, a simple misdemeanor.

33 (2) For a second or subsequent offense, a serious
34 misdemeanor.

35 b. A person who violates a provision of subsection 4 is

1 guilty of a simple misdemeanor punishable by a fine not to exceed
2 five hundred dollars.

3 11. For purposes of this section:

4 a. "*Home inspection*" means a noninvasive visual examination
5 of some combination of the mechanical, electrical, or plumbing
6 systems or the structural and essential components of a
7 residential dwelling, that is intended to identify material
8 defects in those systems and components and is performed
9 for a fee in connection with or in preparation for a
10 proposed or possible residential real estate transfer. "*Home*
11 *inspection*" includes a consultation regarding the property that
12 is represented to be a home inspection or that is described by a
13 similar term. "*Home inspection*" does not include an examination
14 of a single system or component of a residential dwelling or an
15 examination that is limited to inspection for or of one or more
16 of the following:

- 17 (1) Wood-destroying insects.
- 18 (2) Underground tanks and wells.
- 19 (3) Septic systems.
- 20 (4) Swimming pools and spas.
- 21 (5) Alarm systems.
- 22 (6) Air and water quality.
- 23 (7) Tennis courts and playground equipment.
- 24 (8) Pollutants.
- 25 (9) Toxic chemicals and environmental hazards.

26 b. "*Home inspection report*" means a written report of the
27 results of a home inspection.

28 c. "*Home inspector*" means a member in good standing of a
29 national home inspectors association, or a person supervised
30 by a member in good standing of a national home inspectors
31 association who agrees to be responsible for the contents of any
32 home inspection report produced by the person.

33 d. "*National home inspectors association*" means a national
34 association of home inspectors that meets all of the following
35 requirements:

1 (1) Operates on a nonprofit basis and does not operate as a
2 franchise.

3 (2) Has members in more than ten states.

4 (3) Requires that a person shall not become a full member
5 unless the person has performed or participated in more than
6 one hundred home inspections and has passed a recognized or
7 accredited examination testing knowledge of the proper procedures
8 for conducting a home inspection.

9 (4) Requires that its members comply with a code of conduct
10 and attend continuing professional education classes as an
11 ongoing condition of membership.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill prohibits a person from issuing an independent home
16 inspection report, defined in the bill, unless the person is
17 a home inspector, defined in the bill, an architect licensed
18 pursuant to Code chapter 544A (licensed architects), or a
19 professional engineer licensed pursuant to Code chapter 542B
20 (professional engineers and land surveyors).

21 The bill requires a home inspector to perform a home
22 inspection, defined in the bill, with the degree of care that
23 a reasonably prudent home inspector would exercise, which shall
24 be based on the standards of practice and a code of ethics of
25 a national home inspectors association. The bill makes a home
26 inspector, an employer of a home inspector, or a person having
27 a financial interest in the employer of a home inspector (1)
28 offering to repair an issue identified in a home inspection
29 report for a fee, (2) inspecting for a fee a property in which
30 the person has an interest in the transfer, (3) offering a
31 fee, commission, or kickback to a seller for a referral for
32 an inspection, or (4) accepting payment for a particular result
33 of a home inspection, an unfair practice. An unfair practice
34 is punishable as provided by law, including by a civil penalty
35 not to exceed \$40,000. This prohibition does not apply to a

1 home warranty company that is affiliated with or retains a home
2 inspector if the home warranty company performs repairs pursuant
3 to claims made under a home warranty contract.

4 The bill requires a home inspection report to include certain
5 elements. A home inspection report must include a description
6 of the scope of the report, a list of material defects found
7 during the home inspection, and certain statements about the
8 contents of the report. A home inspector who fails to include
9 a necessary element in a home inspection report is guilty of a
10 simple misdemeanor punishable by a fine not to exceed \$500.

11 The bill provides limited circumstances under which a home
12 inspection report may be disclosed to a person other than the
13 person who commissioned the report. The bill prohibits a home
14 inspection report from including an estimate as to repair costs
15 unless the report identifies the source of the estimate, the
16 estimate is stated as a range, and the home inspector suggests
17 that the parties consult a professional in the quoted repair.
18 The bill prohibits a contract to provide a home inspection
19 from limiting the liability of the person providing the home
20 inspection for gross negligence or willful misconduct, or waiving
21 or modifying a provision of the bill.

22 The bill requires a home inspector to maintain insurance
23 against errors and omissions in the performance of a home
24 inspection and general liability, with coverages of not less
25 than \$100,000 per occurrence and \$500,000 in the aggregate,
26 and with deductibles of not more than \$2,500. The bill makes
27 a failure to maintain insurance required by the bill, or a
28 false representation as a person authorized to perform home
29 inspections, a simple misdemeanor for a first offense and a
30 serious misdemeanor for a second or subsequent offense. A simple
31 misdemeanor is punishable by confinement for no more than 30 days
32 and a fine of at least \$105 but not more than \$855. A serious
33 misdemeanor is punishable by confinement for no more than one
34 year and a fine of at least \$430 but not more than \$2,560.