

Senate File 497 - Reprinted

SENATE FILE 497
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SF 26)

(As Amended and Passed by the Senate March 21, 2011)

A BILL FOR

1 An Act establishing a home inspector registration program,
2 providing penalties, and including effective date
3 provisions.

4 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 Registration and Bonding Act*".

4 Sec. 2. NEW SECTION. 104.2 Definitions.

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

7 1. "*Registrant*" means a person who registers under this
8 chapter.

9 2. "*Department*" means the Iowa department of public safety.

10 3. "*Governmental subdivision*" means any city, county, or
11 combination thereof.

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

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

20 b. Plumbing system.

21 c. Electrical system.

22 d. Structural composition.

23 e. Foundation.

24 f. Roof.

25 g. Masonry structure.

26 h. Any other residential real property component established
27 by rule under this chapter.

28 5. "*Home inspector*" means a person who, for compensation
29 either direct or indirect, performs home inspections.

30 6. "*Residential real property*" means real property that is
31 an owner-occupied single-family or two-family dwelling located
32 in this state and occupied or used or intended to be occupied
33 or used for residential purposes, including an interest in any
34 real property covered under chapter 499B.

35 Sec. 3. NEW SECTION. 104.3 Rules.

1 The department shall adopt rules necessary to implement this
2 chapter.

3 Sec. 4. NEW SECTION. 104.4 Fees.

4 1. A registrant under this chapter shall pay an annual
5 registration fee of fifty dollars to the department.

6 2. All fees collected under this chapter shall be considered
7 repayment receipts as defined in section 8.2 and shall be
8 retained by the department and shall be used for any of the
9 department's duties under this chapter. Moneys retained by the
10 department pursuant to this section are not subject to transfer
11 or reversion to the general fund of the state.

12 Sec. 5. NEW SECTION. 104.5 Registration required —
13 exception.

14 1. A person shall not perform a home inspection without
15 being registered under this chapter.

16 2. Following an initial registration, each registrant shall
17 file an annual registration renewal with the department.

18 3. A person shall not engage in the business of home
19 inspections unless at all times a registered home inspector
20 is employed by the person and is actively in charge of
21 performing the home inspections. An individual who performs
22 home inspections pursuant to a business operated as a sole
23 proprietorship shall be a registered home inspector.

24 4. The registration requirements of this chapter shall not
25 apply to any of the following:

26 a. An employee of any unit of state or local government,
27 including but not limited to cities, counties, or school
28 corporations, performing home inspections while acting within
29 the scope of the government employee's employment.

30 b. An employee or an agent of an insurer organized or
31 operating under chapter 515, 518, or 518A, while acting within
32 the scope of the employee's or agent's employment or agency.

33 c. Real estate brokers or salespersons as defined in chapter
34 543B.

35 d. Professional engineers licensed under chapter 542B.

- 1 e. Architects registered pursuant to chapter 544A.
- 2 f. Certified real estate appraisers under chapter 543D.
- 3 g. An employee or agent of a financial institution, as
- 4 defined in section 527.2, subsection 9, while acting within the
- 5 scope of the employee's or agent's employment or agency.

6 Sec. 6. NEW SECTION. 104.6 **Change of residence.**

7 If a person registered to perform home inspections under
8 this chapter changes the person's residence or place of
9 practice, the person shall so notify the department.

10 Sec. 7. NEW SECTION. 104.7 **Local licensing or registration**
11 **requirements.**

12 1. The provisions of this chapter regarding the
13 registration of home inspectors shall not be construed to
14 supersede or preempt home inspector licensing or registration
15 provisions of a governmental subdivision.

16 2. Nothing in this chapter shall prohibit a governmental
17 subdivision from assessing and collecting inspection fees
18 related to inspections performed by a registered home
19 inspector.

20 Sec. 8. NEW SECTION. 104.8 **Insurance and surety bond**
21 **requirements.**

22 1. A person who registers or renews a registration pursuant
23 to this chapter shall, prior to approval of the registration
24 or renewal by the department, provide evidence of a public
25 liability insurance policy and surety bond in an amount of not
26 less than fifteen thousand dollars.

27 2. If the registrant performs home inspections individually
28 through a business conducted as a sole proprietorship, the
29 registrant shall personally obtain the insurance and surety
30 bond required by this section. If the registrant is engaged
31 in the home inspection business as an employee or owner of a
32 legal entity, the insurance and surety bond required by this
33 section shall be obtained by the entity and shall cover all
34 home inspections performed by the entity.

35 3. The insurance and surety bond shall be written by

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

6 Sec. 9. NEW SECTION. **104.9 Deceptive representations of**
7 **registration — violations.**

8 1. Only a person who is duly registered pursuant to this
9 chapter may represent in connection with the sale of home
10 inspection services the fact that the person is registered as a
11 home inspector in the state of Iowa.

12 2. A violation of this chapter or a rule adopted pursuant
13 to this chapter is an unlawful practice pursuant to section
14 714.16. The provisions of section 714.16, including but not
15 limited to provisions relating to investigation, injunctive
16 relief, and penalties, shall apply to this chapter.

17 Sec. 10. Section 558A.4, subsection 2, Code 2011, is amended
18 to read as follows:

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

34 Sec. 11. Section 558A.6, subsection 2, Code 2011, is amended
35 to read as follows:

1 2. The home inspector or person submitting a report or
2 opinion within the scope of the home inspector's or person's
3 practice, profession, or expertise, as provided in section
4 558A.4, for purposes of satisfying the disclosure statement,
5 shall not be liable under this chapter for any matter other
6 than a matter within the home inspector's or person's practice,
7 profession, or expertise, and which is required by the
8 disclosure statement, unless the home inspector or person
9 failed to use care ordinary in the home inspector's or person's
10 profession, practice, or area of expertise in preparing the
11 information.

12 Sec. 12. EFFECTIVE DATE. This Act takes effect January 1,
13 2012.