

HOUSE BILL NO. 225

INTRODUCED BY E. TILLEMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO HOME INSPECTIONS;
ALIGNING THE HOME INSPECTION PROGRAM WITH OTHER DEPARTMENTAL LICENSING PROGRAMS;
PROVIDING DEFINITIONS; PROVIDING FEES; PROVIDING RULEMAKING AUTHORITY; REVISING LAW
RELATED TO HOME INSPECTION LICENSURE; INCREASING THE MINIMUM COVERAGE AMOUNT FOR
ERRORS AND OMISSIONS INSURANCE; PROVIDING STANDARDS FOR THE PRACTICE OF HOME
INSPECTIONS; AMENDING SECTIONS 37-1-401, 39-9-101, 39-9-102, 39-9-206, 39-9-207, 39-9-301, AND
39-9-303, MCA; REPEALING SECTIONS 39-9-212 AND 39-9-213, MCA; AND PROVIDING A DELAYED
EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 4], the following definitions
apply:

- (1) "Department" means the department of labor and industry.
- (2) (a) "Home inspection" means a physical examination of a residential dwelling to identify major defects in various attributes of or attachments to the dwelling, including mechanical, electrical, and plumbing systems in addition to structural and other essential components. Home inspections are performed for compensation and employ visual observation and the testing of user controls but not mathematical or specialized engineering sciences.
- (b) The term does not mean a physical examination of a residential dwelling when the owner or a representative of the owner requests the examination by an individual who is licensed in this state and acting within the scope of practice of the individual's profession or occupation.
- (3) "Home inspection report" means a written document prepared by a home inspector for a client and issued to the client in exchange for compensation after a home inspection has been completed. The report must clearly identify and describe:

- 1 (a) the inspected systems, structures, and other relevant components of the dwelling;
- 2 (b) any major visible defects in the inspected systems, structures, and other relevant components
- 3 of the dwelling; and
- 4 (c) any recommendations for further evaluation of the property by other appropriate persons.
- 5 (4) "Home inspector" means an individual who performs a home inspection for compensation.
- 6 (5) "Practice" means to engage in the services of home inspection as the term is defined in this
- 7 section.
- 8

9 **NEW SECTION. Section 2. Department rulemaking -- fees.** (1) The department may adopt rules

10 necessary to implement [sections 1 through 4].

11 (2) The fees collected under [sections 1 through 4] in accordance with 37-1-134 must be deposited

12 in a special revenue account for administration and enforcement of [sections 1 through 4].

13

14 **NEW SECTION. Section 3. License to practice home inspections required -- qualifications.** (1)

15 An individual may not practice home inspection without a home inspector license issued under Title 37, chapter

16 1, and [sections 1 through 4].

17 (2) An applicant for a home inspection license must have:

18 (a) successfully completed a minimum of 40 hours of comprehensive home inspection instruction

19 approved by the department;

20 (b) membership in a national home inspection association; and

21 (c) a minimum of ~~\$100,000~~ \$125,000 liability insurance coverage in errors and omissions

22 insurance.

23 (3) The requirements in subsections (2)(b) and (2)(c) of this section must be maintained for

24 continued licensure.

25

26 **NEW SECTION. Section 4. Standards of home inspection practice.** (1) A home inspector shall

27 issue a written home inspection report to a client after completing a home inspection unless the client agrees in

28 writing to release the home inspector from this obligation.

- (2) The home inspection report must clearly identify and describe:
- (a) the inspected systems, structures, and other relevant components of the dwelling;
 - (b) any major visible defects in the inspected systems, structures, and other relevant components of the dwelling; and
 - (c) any recommendations for further evaluation of the property by other appropriate persons.
- (3) A home inspector may not:
- (a) ~~disclose information concerning the results of a home inspection without the written approval of the home inspector's client or the client's representative;~~
 - ~~(b)~~ accept compensation from more than one party with a financial interest in the residential dwelling without written approval from all parties with a financial interest in the residential dwelling;
 - ~~(e)(b)~~ accept a commission or allowance, directly or indirectly, from another individual or business entity associated with the client in connection with work for which the home inspector is responsible to the client; or
 - ~~(d)(c)~~ refuse or otherwise fail to disclose promptly to a client information about any business interest or relationship of the home inspector that may affect the client in connection with a home inspection.

Section 5. Section 37-1-401, MCA, is amended to read:

"37-1-401. (Temporary) Uniform regulation for licensing programs without boards --

definitions. As used in this part, the following definitions apply:

- (1) "Complaint" means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.
- (2) "Department" means the department of labor and industry provided for in 2-15-1701.
- (3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:
 - (a) whether a person has violated a provision of law justifying discipline against the person;
 - (b) the status of compliance with a stipulation or order of the department;
 - (c) whether a license should be granted, denied, or conditionally issued; or