

1999 Montana Legislature

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SENATE BILL NO. 210

INTRODUCED BY J. LYNCH, H. HARPER, B. PAVLOVICH, D. SHEA



AN ACT CLARIFYING THE PRACTICE OF HOME INSPECTIONS; SETTING FORTH GUIDELINES AND DEFINITIONS; LISTING EXCLUSIONS; SPECIFYING A REQUIREMENT FOR A WRITTEN HOME INSPECTION REPORT; IDENTIFYING PROHIBITED PRACTICES; AND SUBJECTING HOME INSPECTION SERVICE PROVIDERS WHO VIOLATE HOME INSPECTION TRADE PRACTICES LAWS TO UNFAIR TRADE PRACTICES PROVISIONS.

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

Section 1. Short title. [Sections 1 through 5] may be cited as the "Home Inspection Trade Practices Act".

Section 2. Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) "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.

(2) "Home inspection report" is 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:

(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) "Home inspector" is a person who performs a home inspection for compensation.

Section 3. Exclusions. The provisions of [sections 1 through 5] do not apply to a person:

(1) inspecting a residential dwelling on behalf of a bank, a savings and loan association, or a credit union, unless otherwise required by federal law or regulation;

(2) employed by the state or a local government to enforce building codes;

(3) licensed in Montana and acting within the scope of the person's occupation or profession as:

(a) an architect;

(b) a professional engineer;

(c) an electrician;

(d) a master plumber;

(e) a real estate broker, broker-salesperson, or salesperson;

(f) a real estate appraiser or a certified general or residential real estate appraiser;

(g) an insurance adjuster;

(h) a pesticide applicator; or

(i) a licensed property manager.

Section 4. Requirement -- prohibitions. (1) A home inspector shall issue a home inspection report to a client after completing a home inspection unless the client agrees in writing to release the home inspector from this obligation.

(2) 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;

(c) accept a commission or allowance, directly or indirectly, from another person or business entity associated with the client in connection with work for which the home inspector is responsible to the client;

(d) 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. Unfair trade practice. A person who provides home inspection services or purports to be a home inspector who does not comply with the provisions of [sections 1 through 5] is engaging in an unfair trade practice and is subject to the provisions of Title 30, chapter 14, part 1.

Section 6. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [sections 1 through 5].

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New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted. See the [status of the bill](#) for the bill's primary sponsor.

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