

HOUSE BILL NO. 2299

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PORTER.

5019H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 339, RSMo, by adding thereto seven new sections relating to the certification of home inspectors, with penalty provisions and an effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 339, RSMo, is amended by adding thereto seven new sections, to be known as sections 339.1300, 339.1301, 339.1302, 339.1303, 339.1304, 339.1305, and 339.1306, to read as follows:

339.1300. As used in sections 339.1300 to 339.1306, the following terms mean:

(1) "Client", a person or persons who engage the services of a state-certified home inspector to perform a home inspection by paying the inspection fee and approving the inspection agreement;

(2) "Component", a part of a system;

(3) "Division", the division of professional registration;

(4) "Home inspection", the process by which a home inspector, for compensation, visually examines the readily accessible systems and components of a residential building and describes such systems in writing;

(5) "Home inspection report", a written report on a home inspection;

(6) "Home inspector", an individual who is retained to perform a home inspection for compensation;

(7) "Readily accessible", available for visual inspection without requiring the movement of personal property, dismantling, destructive measures, or any action in the opinion of the inspector that would likely involve risk of injury to the state-certified inspector, another person, or property;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 17 (8) "Residential building", a structure of one to four dwelling units;
18 (9) "State-certified home inspector", an individual certified by the division under
19 sections 339.1300 to 339.1306;
20 (10) "System", a combination of interacting or interdependent components, as
21 defined by the division, assembled to carry out one or more functions.

339.1301. 1. No person shall advertise or hold himself or herself out as engaging
2 in or conducting business as a state-certified home inspector without first obtaining a
3 certification issued by the division.

4 2. No certification shall be issued under sections 339.1300 to 339.1306 to a
5 partnership, association, corporation, firm, limited liability company, or group.

6 3. Any person who is not a state-certified home inspector under sections 339.1300
7 to 339.1306 may assist a state-certified home inspector in the performance of a home
8 inspection, provided that the person is personally supervised by a state-certified home
9 inspector and any home inspection report rendered in connection with the home inspection
10 is reviewed and signed by the state-certified home inspector.

339.1302. 1. There is hereby created in the state treasury the "Missouri Home
2 Inspectors Fund", which shall consist of moneys collected under sections 339.1300 to
3 339.1306. The fund shall be administered by the division, which shall collect and transfer
4 the fees authorized in sections 339.1300 to 339.1306 to the director of revenue for deposit
5 into the fund. Moneys in the fund shall be used solely for the purposes of the certification
6 of state-certified home inspectors as authorized in sections 339.1300 to 339.1306.

7 2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys
8 remaining in the fund at the end of the biennium shall not revert to the credit of the
9 general revenue fund until the amount in the fund at the end of the biennium exceeds
10 either two times the amount of the appropriation from the division's funds for the
11 preceding fiscal year or, if the division requires, by rule, permit renewal less frequently
12 than yearly, three times the appropriation from the division's fund for the preceding fiscal
13 year. The amount, if any, in the fund which shall lapse is that amount in the fund which
14 exceeds the appropriate multiple of the appropriation from the division's funds for the
15 preceding fiscal year.

339.1303. 1. Applications for certification as a state-certified home inspector shall
2 be submitted to the division on forms prescribed by the division and furnished to the
3 applicant. The application shall contain a statement that is made under oath or
4 affirmation that the information contained therein is true and correct to the best
5 knowledge and belief of the applicant, subject to the penalties provided for the making of
6 a false affidavit or declaration. Each application shall be accompanied by a fee established

7 by rule by the division, which shall be set at a level to produce revenue that does not
8 substantially exceed the cost and expense of administering sections 339.1300 to 339.1306.

9 **2. Each applicant for certification shall:**

10 **(1) Demonstrate the knowledge and competence necessary to perform inspections**
11 **of residential real estate as prescribed by rule;**

12 **(2) Submit proof of membership, in good standing, of a nationally recognized home**
13 **inspection organization that requires the successful completion of a psychometrically valid**
14 **and legally defensible proctored home inspection examination;**

15 **(3) Provide evidence of completing one hundred home inspection reports for which**
16 **the individual was paid and can produce invoices for verification;**

17 **(4) Submit proof that the applicant maintains an appropriate errors and omissions**
18 **policy for the protection of any client or other person, firm, association, or corporation that**
19 **may be affected by the activities of the applicant;**

20 **(5) Submit a statement from the department of revenue that the applicant owes no**
21 **tax due under sections 144.010 to 144.510 or sections 143.191 to 143.261; and**

22 **(6) Submit payment of the appropriate fee set by the division.**

23 **3. The division shall investigate to verify such applicant's qualifications. If the**
24 **results of the investigation are satisfactory to the division and the applicant is otherwise**
25 **qualified, the division shall issue to the applicant a certification authorizing the applicant**
26 **to act as a state-certified home inspector in Missouri. Certification authorized under the**
27 **provisions of sections 339.1300 to 339.1306 shall remain valid for a period of two years**
28 **following issuance.**

29 **4. Notwithstanding other provisions of this section, a certification as a state-**
30 **certified home inspector shall be revoked, or in the case of an applicant, shall not be issued,**
31 **if the state-certified home inspector or applicant has pleaded guilty to, entered a plea of**
32 **nolo contendere to, or been found guilty of any of the following offenses or offenses of a**
33 **similar nature established under the laws of this state, any other state, the United States,**
34 **or any other country, regardless of whether sentence is imposed:**

35 **(1) Any dangerous felony as defined under section 556.061 or murder in the first**
36 **degree;**

37 **(2) Any of the following sexual offenses: rape in the first degree, forcible rape,**
38 **statutory rape in the first degree, statutory rape in the second degree, rape in the second**
39 **degree, sexual assault, sodomy in the first degree, forcible sodomy, statutory sodomy in the**
40 **first degree, statutory sodomy in the second degree, child molestation in the first degree,**
41 **child molestation in the second degree, sodomy in the second degree, deviate sexual assault,**
42 **sexual misconduct involving a child, sexual misconduct in the first degree under section**

43 566.090 as it existed prior to August 28, 2013, sexual abuse under section 566.100 as it
44 existed prior to August 28, 2013, sexual abuse in the first or second degree, enticement of
45 a child, or attempting to entice a child;

46 (3) Any of the following offenses against the family and related offenses: incest,
47 abandonment of a child in the first degree, abandonment of a child in the second degree,
48 endangering the welfare of a child in the first degree, abuse of a child, using a child in a
49 sexual performance, promoting sexual performance by a child, or trafficking in children;

50 (4) Any of the following offenses involving child pornography and related offenses:
51 promoting obscenity in the first degree, promoting obscenity in the second degree when the
52 penalty is enhanced to a class E felony, promoting child pornography in the first degree,
53 promoting child pornography in the second degree, possession of child pornography in the
54 first degree, possession of child pornography in the second degree, furnishing child
55 pornography to a minor, furnishing pornographic materials to minors, or coercing
56 acceptance of obscene material; and

57 (5) Mortgage fraud as described in section 570.310.

58 5. The director may promulgate all necessary rules and regulations for the
59 administration of this section. Any rule or portion of a rule, as that term is defined in
60 section 536.010, that is created under the authority delegated in this section shall become
61 effective only if it complies with and is subject to all of the provisions of chapter 536 and,
62 if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any
63 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay
64 the effective date, or to disapprove and annul a rule are subsequently held
65 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
66 after August 28, 2020, shall be invalid and void.

339.1304. 1. The division shall mail a renewal notice to the last known address of
2 each state-certified home inspector under sections 339.1300 to 339.1306 prior to the
3 renewal date. Failure to provide the division with the information required for renewal
4 or to pay the renewal fee after such notice shall result in the expiration of the certification.

5 2. A new certification to replace any lost, destroyed, or mutilated certification may
6 be issued subject to the rules of the division.

339.1305. State-certified home inspectors shall retain originals or true copies of
2 contracts engaging an inspector's services for inspector assignments and inspection reports
3 and supporting data assembled and formulated in preparing inspection reports for three
4 years and a day. The period for retention of the records applicable to each engagement of
5 the services of the state-certified home inspector shall begin on the date of the home
6 inspection report. Such records shall be made available by the state-certified home

7 inspector for inspection and copying by the division on reasonable notice to the state-
8 certified home inspector.

339.1306. 1. An action to recover damages for any act or omission of a state-
2 certified home inspector relating to a home inspection that he or she conducts shall only
3 be commenced within one year after the date of the inspection report.

4 2. Any person or corporation who knowingly violates any provision of sections
5 339.1300 to 339.1306 is guilty of a class B misdemeanor. Any officer or agent of a
6 corporation, or member or agent of a partnership, or association, limited liability company,
7 or group, who knowingly and personally participates in or is an accessory to any violation
8 of sections 339.1300 to 339.1306 is guilty of a class B misdemeanor. This section shall not
9 be construed to release any person from civil liability or criminal prosecution under any
10 other law of this state. The division may refer any complaint of a violation of sections
11 339.1300 to 339.1306 to the attorney general to be filed in any court of competent
12 jurisdiction and perform such other acts as may be necessary to enforce the provisions of
13 sections 339.1300 to 339.1306.

Section B. The enactment of sections 339.1300, 339.1301, 339.1302, 339.1303,
2 339.1304, 339.1305, and 339.1306 of this act shall become effective January 1, 2021.

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