



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBs0263/1
MED:all

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 599**

February 12, 2020 - Offered by Senator BERNIER.

1 **AN ACT** *to amend* 440.973 (3), 440.974 (2) and 440.975 (3) (cm); and *to create*
2 440.972 (1) (bg) and (br), 440.972 (1m), 440.974 (1) (ag) and (ar), 440.975 (3)
3 (bm) and 440.975 (3) (cr) of the statutes; **relating to:** regulation of home
4 inspectors, extending the time limit for emergency rule procedures, providing
5 an exemption from emergency rule procedures, and granting rule-making
6 authority.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, no individual may act as a home inspector, use the title “home inspector,” use any title or description that implies that he or she is a home inspector, or represent himself or herself to be a home inspector unless the individual is registered with the Department of Safety and Professional Services. Similarly, no business entity may provide home inspection services, and no business entity may use the title “home inspectors” to describe the business entity’s services, unless each of the home inspectors employed by the business entity is so registered. In order to become a registered home inspector, an individual must not have a disqualifying criminal record and must pass an examination approved by DSPS. The practice of home inspectors is governed by

statutes and by rules promulgated by DSPS. This bill does the following with respect to the law governing home inspectors:

1. Requires, in order to be granted a home inspector registration, that an individual complete 120 hours of instruction and 40 hours of field training, as well as the requirements under current law.

2. Provides for reciprocal registration of home inspectors licensed in other states who have comparable or more stringent requirements.

3. Adjusts the contents that a report submitted by a home inspector to a client is required to contain, including by adding a number of required elements for the report, such as a summary page with required statements, and requiring defects to be labeled as defects if they satisfy the legal definition of defect.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 440.972 (1) (bg) and (br) of the statutes are created to read:

2 440.972 (1) (bg) Submits evidence satisfactory to the department that he or she
3 has completed at least 120 hours of instruction approved by the department under
4 s. 440.974 (1) (ag). No more than 60 hours of the required hours may be satisfied
5 through remote learning, online programs or other comparable means that do not
6 involve in-person, classroom instruction.

7 (br) Submits evidence satisfactory to the department that he or she has
8 completed at least 40 hours of field training approved by the department under
9 under s. 440.974 (1) (ar) that is conducted by a home inspector registered in this
10 state.

11 **SECTION 2.** 440.972 (1m) of the statutes is created to read:

12 440.972 (1m) The department shall register an individual under this
13 subchapter if the individual is registered or licensed in good standing as a home
14 inspector in another state, the individual complies with sub. (1) (a), (b), (c), and (d),
15 and the other state has requirements that the department determines meet or exceed
16 those required under sub. (1).

1 **SECTION 3.** 440.973 (3) of the statutes is amended to read:

2 440.973 (3) An individual is not eligible for examination unless the individual
3 has satisfied the requirements for registration under s. 440.972 (1) (a) ~~to (e)~~ and (b)
4 at least 30 days before the date of the examination.

5 **SECTION 4.** 440.974 (1) (ag) and (ar) of the statutes are created to read:

6 440.974 (1) (ag) Standards for instruction for purposes of the requirement
7 under s. 440.972 (1) (bg).

8 (ar) Standards for field training for purposes of the requirement under s.
9 440.972 (1) (br).

10 **SECTION 5.** 440.974 (2) of the statutes is amended to read:

11 440.974 (2) The department shall promulgate rules establishing continuing
12 education requirements for individuals registered under this subchapter. The rules
13 promulgated under this subsection shall require the completion of at least 40 hours
14 of continuing education every 2 years. The rules promulgated under this subsection
15 may not require continuing education for an applicant for renewal of a registration
16 that expires on the first renewal date after the date on which the department initially
17 granted the registration.

18 **SECTION 6.** 440.975 (3) (bm) of the statutes is created to read:

19 440.975 (3) (bm) States the property address, the name of the home inspector
20 who conducted the home inspection, the date of the home inspection, the names of
21 the individuals who prepared the report, the date the report was prepared, and, if
22 applicable, the date the report was revised.

23 **SECTION 7.** 440.975 (3) (cm) of the statutes is amended to read:

24 440.975 (3) (cm) Describes any defect that is detected by the home inspector
25 during his or her home inspection. A home inspector is ~~not required to~~ shall use the

1 term “defect” in describing a defect condition in the written report required under
2 this subsection if the home inspector believes the condition satisfies the definition
3 of defect under s. 440.97 (2m). A home inspector may not use the term “defect” in a
4 written report required under this subsection unless that use is consistent with s.
5 440.97 (2m).

6 **SECTION 8.** 440.975 (3) (cr) of the statutes is created to read:

7 440.975 (3) (cr) 1. Includes a summary page that includes at least all of the
8 following:

9 a. A list of conditions, labeled as defects, that are observed under par. (cm) to
10 be defects, as defined in s. 440.97 (2m).

11 b. A listing of components needing repairs, components needing further
12 evaluation, items to monitor, and maintenance items.

13 2. The summary page shall include references to the page, heading, or item
14 number in the detailed account for further information.

15 3. The summary page shall include all of the following statements:

16 NOTE: This summary page is provided for convenience and is not a substitute
17 for reading the entire report and should not be relied upon as the complete list for
18 the client’s reference.

19 For the purposes of the report, “defect,” as defined in section 440.97 (2m), Wis.
20 Stats., means a condition of any component of an improvement that would
21 significantly impair the health or safety of future occupants of a property or that, if
22 not repaired, removed, or replaced, would significantly shorten or adversely affect
23 the expected normal life of the component of the improvement. The contract of sale
24 may define “defect” to also include a condition that would have a significant adverse

1 effect on the value of the property, but such a condition may not be labeled a defect
2 in the report unless it meets the definition in section 440.97 (2m), Wis. Stats.

3 NOTE: A home inspector may not report on the market value or marketability
4 of a property or whether a property should or should not be purchased.

5 **SECTION 9. Nonstatutory provisions.**

6 (1) In requiring a home inspector, under s. 440.975 (3) (cm), to describe a defect,
7 as defined in s. 440.97 (2m), by using the term “defect” in a home inspection
8 consistent with the definition under s. 440.97 (2m), the legislature does not intend
9 to modify the liability of a home inspector in any action relating to a home inspection
10 conducted by the home inspector.

11 (2) The department of safety and professional services may promulgate
12 emergency rules under s. 227.24 necessary to implement this act. Notwithstanding
13 s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain
14 in effect until May 1, 2022, or the date on which permanent rules take effect,
15 whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), the department is not
16 required to provide evidence that promulgating a rule under this subsection as an
17 emergency rule is necessary for the preservation of the public peace, health, safety,
18 or welfare and is not required to provide a finding of emergency for a rule
19 promulgated under this subsection.

20 **SECTION 10. Initial applicability.**

21 (1) The treatment of s. 440.972 (1) (bg) and (br) first applies to decisions by the
22 department of safety and professional services to grant or deny a registration under
23 s. 440.972 made on the date on which the rules promulgated under s. 440.974 (1) (ag)
24 and (ar) take effect.

