

SECOND REGULAR SESSION

SENATE BILL NO. 1009

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURLISON.

Read 1st time February 17, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5195S.011

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;

21 **(8) "Residential building", a structure of one to four dwelling**
22 **units;**

23 **(9) "State-certified home inspector", an individual certified by the**
24 **division under sections 339.1300 to 339.1306;**

25 **(10) "System", a combination of interacting or interdependent**
26 **components, as defined by the division, assembled to carry out one or**
27 **more functions.**

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

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

7 **3. No political subdivision shall require any home inspector to**
8 **be state-certified pursuant to sections 339.1300 to 339.1306.**

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

9 **2. Notwithstanding the provisions of section 33.080 to the**
10 **contrary, any moneys remaining in the fund at the end of the biennium**
11 **shall not revert to the credit of the general revenue fund until the**
12 **amount in the fund at the end of the biennium exceeds either two times**
13 **the amount of the appropriation from the division's funds for the**
14 **preceding fiscal year. The amount, if any, in the fund which shall lapse**
15 **is that amount in the fund which exceeds the appropriate multiple of**
16 **the appropriation from the division's funds for the preceding fiscal**
17 **year.**

339.1303. 1. Applications for certification as a state-certified
2 **home inspector shall be submitted to the division on forms prescribed**
3 **by the division and furnished to the applicant. The application shall**
4 **contain a statement that is made under oath or affirmation that the**
5 **information contained therein is true and correct to the best knowledge**

6 and belief of the applicant, subject to the penalties provided for the
7 making of a false affidavit or declaration. Each application shall be
8 accompanied by a fee established by rule by the division, which shall
9 be set at a level to produce revenue that does not substantially exceed
10 the cost and expense of administering sections 339.1300 to 339.1306.

11 2. Each applicant for certification shall:

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

14 (2) Submit proof of membership, in good standing, of a nationally
15 recognized home inspection organization that requires the successful
16 completion of a legally defensible proctored home inspection
17 examination;

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

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

25 (5) Submit a statement from the department of revenue that the
26 applicant owes no tax due under sections 144.010 to 144.510 or sections
27 143.191 to 143.261; and

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

29 3. The division shall investigate to verify such applicant's
30 qualifications. If the results of the investigation are satisfactory to the
31 division and the applicant is otherwise qualified, the division shall
32 issue to the applicant a certification authorizing the applicant to act as
33 a state-certified home inspector in Missouri. Certification authorized
34 under the provisions of sections 339.1300 to 339.1306 shall remain valid
35 for a period of two years following issuance.

36 4. Notwithstanding other provisions of this section, a
37 certification as a state-certified home inspector shall be revoked, or in
38 the case of an applicant, shall not be issued, if the state-certified home
39 inspector or applicant has pleaded guilty to, entered a plea of nolo
40 contendere to, or been found guilty of mortgage fraud as described in
41 section 570.310.

42 5. The director may promulgate all necessary rules and

43 regulations for the administration of sections 339.1300 to 339.1306. Any
44 rule or portion of a rule, as that term is defined in section 536.010, that
45 is created under the authority delegated in this section shall become
46 effective only if it complies with and is subject to all of the provisions
47 of chapter 536 and, if applicable, section 536.028. This section and
48 chapter 536 are nonseverable, and if any of the powers vested with the
49 general assembly pursuant to chapter 536 to review, to delay the
50 effective date, or to disapprove and annul a rule are subsequently held
51 unconstitutional, then the grant of rulemaking authority and any rule
52 proposed or adopted after August 28, 2020, shall be invalid and void.

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

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

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

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

5 2. Any person or corporation who knowingly violates any
6 provision of sections 339.1300 to 339.1306 is guilty of a class B
7 misdemeanor. Any officer or agent of a corporation, or member or
8 agent of a partnership, or association, limited liability company, or
9 group, who knowingly and personally participates in or is an accessory

10 to any violation of sections 339.1300 to 339.1306 is guilty of a class B
11 misdemeanor. This section shall not be construed to release any person
12 from civil liability or criminal prosecution under any other law of this
13 state. The division may refer any complaint of a violation of sections
14 339.1300 to 339.1306 to the attorney general to be filed in any court of
15 competent jurisdiction and perform such other acts as may be
16 necessary to enforce the provisions of sections 339.1300 to 339.1306.

17 3. Nothing in this section shall be construed to prohibit a person
18 certified under sections 339.1300 to 339.1306 from engaging in or
19 conducting business as a state-certified home inspector, or from
20 collecting payment for services rendered unless such person
21 misrepresents himself or herself as a state-certified home inspector.

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

✓

Bill

Copy