

# State of Wisconsin



2021 Senate Bill 74

Date of enactment: **March 26, 2021**

Date of publication\*: **March 27, 2021**

## 2021 WISCONSIN ACT 17

**AN ACT** to repeal 440.978 (4); to amend 440.97 (2m), 440.973 (3), 440.974 (2) and 440.975 (3) (cm); and to create 440.972 (1) (bg), 440.972 (1m), 440.974 (1) (ag), 440.975 (3) (bm) and 440.975 (3) (cr) of the statutes; relating to: regulation of home inspectors, providing an exemption from emergency rule procedures, and granting rule-making authority.

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

**SECTION 1.** 440.97 (2m) of the statutes is amended to read:

440.97 (2m) "Defect" means a condition of any component of an improvement that a home inspector determines, on the basis of the home inspector's judgment on the day of an inspection, would significantly impair the health or safety of future occupants of a property or that, if not repaired, removed, or replaced, would significantly shorten or adversely affect the expected normal life of the component of the improvement.

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

440.972 (1) (bg) Submits evidence satisfactory to the department that he or she has completed at least 40 hours of instruction approved by the department under s. 440.974 (1) (ag).

**SECTION 3.** 440.972 (1m) of the statutes is created to read:

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

the department determines meet or exceed those required under sub. (1).

**SECTION 4.** 440.973 (3) of the statutes is amended to read:

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

**SECTION 5.** 440.974 (1) (ag) of the statutes is created to read:

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

**SECTION 6.** 440.974 (2) of the statutes is amended to read:

440.974 (2) The department shall promulgate rules establishing continuing education requirements for individuals registered under this subchapter. The rules promulgated under this subsection shall require the completion of at least 40 hours of continuing education every 2 years, except that the rules may not require continuing education for an applicant for renewal of a registration that expires on the 1st and 2nd renewal dates after the date on which the department initially granted the registration.

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

**SECTION 7.** 440.975 (3) (bm) of the statutes is created to read:

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

**SECTION 8.** 440.975 (3) (cm) of the statutes is amended to read:

440.975 (3) (cm) Describes any defect that is detected by the home inspector during his or her home inspection. A home inspector is not required to shall use the term “defect” in describing a defect condition in the written report required under this subsection. ~~A home inspector may not use the term “defect” in a written report required under this subsection unless that use is consistent with s. 440.97 (2m) if the home inspector believes the condition satisfies the definition of “defect” under s. 440.97 (2m).~~

**SECTION 9.** 440.975 (3) (cr) of the statutes is created to read:

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

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

b. Other than items labeled as defects, a listing of components needing repairs, components needing further evaluation, items to monitor, and maintenance items.

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

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

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

For the purposes of the report, “defect,” as defined in section 440.97 (2m), Wis. Stats., means a condition of any component of an improvement that a home inspector determines, on the basis of the home inspector’s judgment on the day of an inspection, would significantly impair the health or safety of occupants of a property or that, if not repaired, removed, or replaced, would signifi-

cantly shorten or adversely affect the expected normal life of the component of the improvement. The contract of sale may define “defect” to also include a condition that would have a significant adverse effect on the value of the property, but such a condition may not be labeled a defect in the report unless it meets the definition in section 440.97 (2m), Wis. Stats.

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

**SECTION 10.** 440.978 (4) of the statutes is repealed.

**SECTION 11. Nonstatutory provisions.**

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

(2) The rules promulgated under s. 440.974 (2), as affected by this act, shall first apply to an individual who is required to satisfy s. 440.972 (1) (bg) as provided in SECTION 12 (1) of this act.

(3) The department of safety and professional services may promulgate emergency rules under s. 227.24 necessary to implement this act. Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

**SECTION 12. Initial applicability.**

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

(2) The treatment of s. 440.975 (3) (bm), (cm), and (cr) first applies to home inspection reports submitted to a client on the effective date of this subsection.

**SECTION 13. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of s. 440.975 (3) (bm), (cm), and (cr) and SECTION 12 (2) of this act take effect on the first day of the 3rd month beginning after publication.