



## ENGROSSED 2019 ASSEMBLY BILL 655

March 9, 2020 - Printed by direction of SENATE CHIEF CLERK.

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

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### *Analysis by the Legislative Reference Bureau*

#### ***Engrossment information:***

The text of Engrossed 2019 Assembly Bill 655, as passed by the assembly on February 20, 2020, consists of the following documents adopted in the assembly on February 20, 2020: Assembly Substitute Amendment 1 as affected by Assembly Amendments 1, 2, and 3. The text also includes the March 9, 2020, chief clerk's correction to Assembly Amendment 2.

#### ***Content of Engrossed 2019 Assembly Bill 655:***

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

**ENGROSSED ASSEMBLY BILL 655**

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 40 hours of instruction.

2. Exempts newly registered home inspectors from continuing education requirements for the first two renewals of a registration. Current DSPS rules exempt newly registered home inspectors from continuing education requirements for the first renewal of a registration.

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

4. Modifies the definition of what is considered to be a “defect,” for purposes of a report submitted by a home inspector to a client. The bill also makes modifications to what the report is required to contain, including by adding a number of required elements and statements 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.

5. Repeals a provision allowing DSPS to use an alternative professional discipline procedure for home inspectors.

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

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

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

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

**ENGROSSED ASSEMBLY BILL 655****SECTION 1m**

1           440.972 (1) (bg) Submits evidence satisfactory to the department that he or she  
2           has completed at least 40 hours of instruction approved by the department under s.  
3           440.974 (1) (ag).

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

5           440.972 (1m) The department shall register an individual under this  
6           subchapter if the individual is registered or licensed in good standing as a home  
7           inspector in another state, the individual complies with sub. (1) (a), (b), (c), and (d),  
8           and the other state has requirements that the department determines meet or exceed  
9           those required under sub. (1).

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

11          440.973 (3) An individual is not eligible for examination unless the individual  
12          has satisfied the requirements for registration under s. 440.972 (1) (a) ~~to (e)~~ and (b)  
13          at least 30 days before the date of the examination.

14          **SECTION 4.** 440.974 (1) (ag) of the statutes is created to read:

15          440.974 (1) (ag) Standards for instruction for purposes of the requirement  
16          under s. 440.972 (1) (bg).

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

18          440.974 (2) The department shall promulgate rules establishing continuing  
19          education requirements for individuals registered under this subchapter. The rules  
20          promulgated under this subsection shall require the completion of at least 40 hours  
21          of continuing education every 2 years, except that the rules may not require  
22          continuing education for an applicant for renewal of a registration that expires on  
23          the 1st and 2nd renewal dates after the date on which the department initially  
24          granted the registration.

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

**ENGROSSED ASSEMBLY BILL 655****SECTION 6**

1           440.975 (3) (bm) States the property address, the name of the home inspector  
2 who conducted the home inspection, the date of the home inspection, the names of  
3 the individuals who prepared the report, the date the report was prepared, and, if  
4 applicable, the date the report was revised.

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

6           440.975 (3) (cm) Describes any defect that is detected by the home inspector  
7 during his or her home inspection. A home inspector is ~~not required to~~ shall use the  
8 term “defect” in describing a ~~defect~~ condition in the written report required under  
9 this subsection. ~~A home inspector may not use the term “defect” in a written report~~  
10 ~~required under this subsection unless that use is consistent with s. 440.97 (2m) if the~~  
11 home inspector believes the condition satisfies the definition of “defect” under s.  
12 440.97 (2m).

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

14           440.975 (3) (cr) 1. Includes a summary page that includes at least all of the  
15 following:

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

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

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

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

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

**ENGROSSED ASSEMBLY BILL 655**

1 For the purposes of the report, “defect,” as defined in section 440.97 (2m), Wis.  
2 Stats., means a condition of any component of an improvement that a home inspector  
3 determines, on the basis of the home inspector’s judgment on the day of an  
4 inspection, would significantly impair the health or safety of occupants of a property  
5 or that, if not repaired, removed, or replaced, would significantly shorten or  
6 adversely affect the expected normal life of the component of the improvement. The  
7 contract of sale may define “defect” to also include a condition that would have a  
8 significant adverse effect on the value of the property, but such a condition may not  
9 be labeled a defect in the report unless it meets the definition in section 440.97 (2m),  
10 Wis. Stats.

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

13 **SECTION 8m.** 440.978 (4) of the statutes is repealed.

14 **SECTION 9. Nonstatutory provisions.**

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

20 (1m) The rules promulgated under s. 440.974 (2), as affected by this act, shall  
21 first apply to an individual who is required to satisfy s. 440.972 (1) (bg) as provided  
22 in SECTION 10 (1) of this act.

23 (2) The department of safety and professional services may promulgate  
24 emergency rules under s. 227.24 necessary to implement this act. Notwithstanding  
25 s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain

**ENGROSSED ASSEMBLY BILL 655****SECTION 9**

1 in effect until May 1, 2022, or the date on which permanent rules take effect,  
2 whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), the department is not  
3 required to provide evidence that promulgating a rule under this subsection as an  
4 emergency rule is necessary for the preservation of the public peace, health, safety,  
5 or welfare and is not required to provide a finding of emergency for a rule  
6 promulgated under this subsection.

7 **SECTION 10. Initial applicability.**

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

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

14 **SECTION 11. Effective dates.** This act takes effect on the day after publication,  
15 except as follows:

16 (1) The treatment of s. 440.975 (3) (bm), (cm), and (cr) and SECTION 10 (2) of this  
17 act take effect on January 1, 2021.

18 (END)