

HOME INSPECTORS

Cross-reference: See also ch. [SPS 131](#), Wis. adm. code.

440.97 Definitions. In this subchapter:

- (1) "Client" means a person who contracts with a home inspector for a home inspection.
- (2) "Compensation" means direct or indirect payment, including the expectation of payment whether or not actually received.
- (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 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.
- (3) "Dwelling unit" means a structure or that part of a structure that is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons who are maintaining a common household, to the exclusion of all others.
- (4) "Home inspection" means the process by which a home inspector examines the observable systems and components of improvements to residential real property that are readily accessible.
- (5) "Home inspection report" means a written opinion of a home inspector concerning all of the following:
 - (a) The condition of the improvements to residential real property that contains not more than 4 dwelling units.
 - (b) The condition of mechanical and structural components of the improvements specified in par. (a).
- (6) "Home inspector" means an individual who, for compensation, conducts a home inspection.
- (7) "Technically exhaustive" means the extensive use of measurements, instruments, testing, calculations and other means to develop scientific or engineering findings, conclusions or recommendations.

History: [1997 a. 81](#); [2017 a. 338](#); [2021 a. 17](#).

440.971 Registry established. The department shall establish a registry of home inspectors.

History: [1997 a. 81](#).

440.9712 Registration required.

- (1) Except as provided in s. [440.9715](#), 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 under this subchapter.
- (1m) No business entity may provide home inspection services unless each of the home inspectors employed by the business entity is registered under this subchapter.
- (2) No business entity may use, in connection with the name or signature of the business entity, the title "home inspectors" to describe the business entity's services, unless each of the home inspectors employed by the business entity is registered under this subchapter.

History: [1997 a. 81](#).

440.9715 Applicability. A registration is not required under this subchapter for any of the following:

- (1) An individual who conducts a home inspection while lawfully practicing within the scope of a license, permit or certificate granted to that individual by a state governmental agency.
- (2) An individual who constructs, repairs or maintains improvements to residential real property, if the individual conducts home inspections only as part of his or her business of constructing, repairing or maintaining improvements to real property and if the individual does not describe himself or herself as a registered home inspector or convey the impression that he or she is a registered home inspector.
- (3) An individual who conducts home inspections in the normal course of his or her employment as an employee of a federal, state or local governmental agency.

History: [1997 a. 81](#).

440.972 Registration of home inspectors.

- (1) The department shall register an individual under this subchapter if the individual does all of the following:
 - (a) Submits an application for registration to the department on a form provided by the department.

- (b) Pays the fee specified in s. [440.05 \(1\)](#).
- (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 \(1\) \(ag\)](#).
- (c) Submits evidence satisfactory to the department that he or she is not subject to a pending criminal charge, or has not been convicted of a felony, misdemeanor or other offense, the circumstances of which substantially relate to the practice of home inspection.
- (d) Passes an examination under s. [440.973 \(1\)](#).
- (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. [\(1\)](#).
- (2) The renewal date for certificates granted under this section is specified under s. [440.08 \(2\) \(a\) 38g.](#), and the renewal fee for such certificates is determined by the department under s. [440.03 \(9\) \(a\)](#).

History: [1997 a. 81](#); [2007 a. 20](#); [2021 a. 17](#).

Cross-reference: See also ch. [SPS 131](#), Wis. adm. code.

440.973 Examinations.

- (1) No person may be registered under this subchapter unless he or she passes an examination approved by the department. In approving an examination under this subsection, the department shall consider the use of an examination that is similar to an examination that is required for membership in the American Society of Home Inspectors.
- (2) The department shall conduct examinations for home inspector registration at least semiannually at times and places determined by the department.
- (3) An individual is not eligible for examination unless the individual has satisfied the requirements for registration under s. [440.972 \(1\) \(a\)](#) and [\(b\)](#) at least 30 days before the date of the examination.

History: [1997 a. 81](#); [2021 a. 17](#).

Cross-reference: See also ch. [SPS 131](#), Wis. adm. code.

440.974 Rules.

- (1) The department shall promulgate rules necessary to administer this subchapter, including rules to establish all of the following:
 - (a) Standards for acceptable examination performance by an applicant for registration.
 - (ag) Standards for instruction for purposes of the requirement under s. [440.972 \(1\) \(bg\)](#).
 - (b) Subject to s. [440.975](#), standards for the practice of home inspection by home inspectors and standards for specifying the mechanical and structural components of improvements to residential real property that are included in a home inspection. The rules promulgated under this paragraph shall include standards for the inspection of carbon monoxide detectors. The rules promulgated under this paragraph may not require a home inspector to use a specified form for the report required under s. [440.975 \(3\)](#).
 - (c) Subject to s. [440.975](#), the information that a home inspector is required to provide to a client concerning the results of the home inspection conducted by the home inspector.
- (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.

History: [1997 a. 81](#); [2009 a. 158](#); [2013 a. 124](#); [2021 a. 17](#).

Cross-reference: See also ch. [SPS 131](#), Wis. adm. code.

440.975 Standards of practice.

- (1) In this section, "reasonably competent and diligent inspection" means an inspection that complies with the standards established under this subchapter or the rules promulgated under this subchapter.

- (2)** A home inspector shall perform a reasonably competent and diligent inspection to detect observable conditions of an improvement to residential real property. Except for removing an access panel that is normally removed by an occupant of residential real property, this subsection does not require a home inspector to disassemble any component of an improvement to residential real property. A reasonably competent and diligent inspection under this subsection is not required to be technically exhaustive.
- (3)** After completing a home inspection, a home inspector shall submit a written report to a client that does all of the following:
 - (a)** Lists the components of an improvement to residential real property that the home inspector is required to inspect under the rules promulgated under s. [440.974 \(1\) \(b\)](#).
 - (b)** Lists the components of an improvement to residential real property that the home inspector has inspected.
 - (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.
 - (cm)** Describes any defect that is detected by the home inspector during his or her home inspection. A home inspector shall use the term “defect” in describing a condition in the written report required under this subsection if the home inspector believes the condition satisfies the definition of “defect” under s. [440.97 \(2m\)](#).

(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 significantly 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.

- (d)** Provides any other information that the home inspector is required to provide under the rules promulgated under s. [440.974 \(1\) \(c\)](#).
- (4)** A home inspector is not required to report on any of the following:
 - (a)** The life expectancy of an improvement to residential real property or a component of an improvement to residential real property.
 - (b)** The cause of the need for any major repair to an improvement to residential real property or a component of an improvement to residential real property.
 - (c)** The method of making any repair or correction, the materials needed for any repair or correction or the cost of any repair or correction.

- (d) The suitability for any specialized use of an improvement to residential real property.
- (e) Whether an improvement to residential real property or a component of an improvement to residential real property complies with applicable regulatory requirements.
- (f) The condition of any component of an improvement to residential real property that the home inspector was not required to inspect under the rules promulgated under s. [440.974 \(1\) \(b\)](#).
- (5)** A home inspector may not report, either in writing or verbally, on any of the following:
 - (a) The market value or marketability of a property.
 - (b) Whether a property should or should not be purchased.
- (6)** This section does not require a home inspector to do any of the following:
 - (a) Offer a warranty or guarantee of any kind.
 - (b) Calculate the strength, adequacy or efficiency of any component of an improvement to residential real property.
 - (c) Enter any area or perform any procedure that may damage an improvement to residential real property or a component of an improvement to residential real property, or enter any area or perform any procedure that may be dangerous to the home inspector or to other persons.
 - (d) Operate any component of an improvement to residential real property that is inoperable.
 - (e) Operate any component of an improvement to residential real property that does not respond to normal operating controls.
 - (f) Disturb insulation or move personal items, furniture, equipment, vegetation, soil, snow, ice or debris that obstructs access to or visibility of an improvement to residential real property or a component of an improvement to residential real property.
 - (g) Determine the effectiveness of a component of an improvement to residential real property that was installed to control or remove suspected hazardous substances.
 - (h) Predict future conditions, including the failure of a component of an improvement to residential real property.
 - (i) Project or estimate the operating costs of a component of an improvement to residential real property.
 - (j) Evaluate acoustic characteristics of a component of an improvement to residential real property.
 - (k) Inspect for the presence or absence of pests, including rodents, insects and wood-damaging organisms.
- (L) Inspect cosmetic items, underground items or items not permanently installed.
- (m) Inspect for the presence of any hazardous substances.
- (7)** A home inspector may not do any of the following:
 - (a) Perform or offer to perform any act or service contrary to law.
 - (b) Deliver a home inspection report to any person other than the client without the client's consent.
 - (c) Perform a home inspection for a client with respect to a transaction if the home inspector, a member of the home inspector's immediate family or an organization or business entity in which the home inspector has an interest, is a party to the transaction and has an interest that is adverse to that of the client, unless the home inspector obtains the written consent of the client.
 - (d) Accept any compensation from more than one party to a transaction for which the home inspector has provided home inspection services without the written consent of all of the parties to the transaction.
 - (e) Pay or receive, directly or indirectly, in full or in part, for a home inspection or for the performance of any construction, repairs, maintenance or improvements regarding improvements to residential real property that is inspected by him or her, a fee, a commission, or compensation as a referral or finder's fee, to or from any person who is not a home inspector.
- (8)** This section does not prohibit a home inspector from doing any of the following:
 - (a) Reporting observations or conditions in addition to those required under this section or the rules promulgated under this section.

- (b) Excluding a component of an improvement to residential real property from the inspection, if requested to do so by his or her client.
- (c) Engaging in an activity that requires an occupation credential if he or she holds the necessary credential.

History: [1997 a. 81](#); [2017 a. 338](#); [2021 a. 17](#).

Cross-reference: See also ch. [SPS 131](#), Wis. adm. code.

440.976 Disclaimers or limitation of liability. No home inspector may include, as a term or condition in an agreement to conduct a home inspection, any provision that disclaims the liability, or limits the amount of damages for liability, of the home inspector for his or her failure to comply with the standards of practice prescribed in this subchapter or in rules promulgated under this subchapter.

History: [1997 a. 81](#).

440.977 Liability of home inspectors.

- (1) Notwithstanding s. [893.54](#), an action to recover damages for any act or omission of a home inspector relating to a home inspection that he or she conducts shall be commenced within 2 years after the date that a home inspection is completed or be barred. The period of limitation under this subsection may not be reduced by agreement.
- (2) A home inspector is not liable to a person for damages that arise from an act or omission relating to a home inspection that he or she conducts if that person is not a party to the transaction for which the home inspection is conducted.

History: [1997 a. 81](#).

440.978 Discipline; prohibited acts.

- (1) Subject to the rules promulgated under s. [440.03 \(1\)](#), the department may make investigations or conduct hearings to determine whether a violation of this subchapter or any rule promulgated under this subchapter has occurred.
- (2) Subject to the rules promulgated under s. [440.03 \(1\)](#), the department may reprimand a home inspector or deny, limit, suspend or revoke a certificate under this subchapter if the department finds that the applicant or home inspector has done any of the following:
 - (a) Made a material misstatement in an application for a certificate or renewal of a certificate.
 - (b) Engaged in conduct while practicing as a home inspector that evidences a lack of knowledge or ability to apply professional principles or skills.
 - (c) Subject to ss. [111.321](#), [111.322](#) and [111.335](#), been arrested or convicted of an offense committed while registered under this subchapter.
 - (d) Advertised in a manner that is false, deceptive or misleading.
 - (e) Advertised, practiced or attempted to practice as a home inspector under another person's name.
 - (f) Allowed his or her name to be used by another person while the other person was practicing or attempting to practice as a home inspector.
 - (g) Subject to ss. [111.321](#), [111.322](#) and [111.34](#), practiced as a home inspector while the individual's ability to practice was impaired by alcohol or other drugs.
 - (h) Acted as a home inspector in connection with a transaction in which he or she was also an appraiser or broker.
 - (i) Performed, or agreed to perform, for compensation any repairs, maintenance or improvements on any property less than 2 years after he or she conducts a home inspection, without the written consent of the property owner given before the home inspection occurred.
 - (j) Prevented or attempted to prevent a client from providing a copy of, or any information from, a home inspection report done by the home inspector in connection with a transaction to any interested party to the transaction.
 - (k) Failed to provide a home inspection report to a client by the date agreed on by the home inspector and the client or, if no date was agreed on, within a reasonable time after completing the inspection.
 - (m) Violated this subchapter or any rule promulgated under this subchapter.

- (3) In addition to or in lieu of proceeding under sub. (2), the department may assess against a person who has engaged in any of the practices specified in sub. (2) a forfeiture of not more than \$1,000 for each separate offense.
- (5) The department may, as a condition of removing a limitation on a certificate issued under this subchapter or of reinstating a certificate that has been suspended or revoked under this subchapter, do any of the following:
 - (a) Require the home inspector to obtain insurance against loss, expense and liability resulting from errors and omissions or neglect in the performance of services as a home inspector.
 - (b) Require the home inspector to file with the department a bond that is furnished by a company authorized to do business in this state and is in an amount approved by the department.

History: [1997 a. 81](#); [2021 a. 17](#).

Cross-reference: See also ch. [SPS 131](#), Wis. adm. code.

440.979 Report by department. The department shall submit an annual report to the legislature under s. [13.172 \(2\)](#) that describes all of the following:

- (1) The number of home inspectors who are registered under this subchapter.
- (2) The number and nature of complaints regarding home inspections that are received by the department from clients of home inspectors.
- (3) The number and nature of complaints regarding home inspections that are received by the department from persons who are not clients of home inspectors.
- (4) An estimate of the cost of complying with this subchapter that is incurred by home inspectors.
- (5) The cost incurred by the department in carrying out its duties under this subchapter.

History: [1997 a. 81](#); [1999 a. 32](#) s. [311](#).

Cross-reference: See also ch. [SPS 131](#), Wis. adm. code.