

Senator Paula F. Julander proposes the following substitute bill:

**HOME INSPECTION - ACTION AGAINST
INSPECTOR**

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Paula F. Julander

LONG TITLE

General Description:

This bill modifies the Real Estate Code by clarifying the practice of home inspections.

Highlighted Provisions:

This bill:

- ▶ sets forth guidelines and definitions;
- ▶ lists exclusions;
- ▶ specifies requirements for written home inspection reports;
- ▶ identifies prohibited practices;
- ▶ makes home inspection service providers liable for inspections not performed in compliance with this chapter; and
- ▶ limits the time within which a client may commence a suit against an inspector.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

57-24-101, Utah Code Annotated 1953



- 26 **57-24-102**, Utah Code Annotated 1953
- 27 **57-24-103**, Utah Code Annotated 1953
- 28 **57-24-104**, Utah Code Annotated 1953
- 29 **57-24-105**, Utah Code Annotated 1953
- 30 **57-24-106**, Utah Code Annotated 1953
- 31 **57-24-107**, Utah Code Annotated 1953
- 32 **57-24-108**, Utah Code Annotated 1953
- 33 **57-24-109**, Utah Code Annotated 1953
- 34 **57-24-110**, Utah Code Annotated 1953
- 35 **57-24-111**, Utah Code Annotated 1953
- 36 **57-24-112**, Utah Code Annotated 1953
- 37 **57-24-113**, Utah Code Annotated 1953
- 38 **57-24-114**, Utah Code Annotated 1953
- 39 **57-24-115**, Utah Code Annotated 1953
- 40 **57-24-116**, Utah Code Annotated 1953



41
42 *Be it enacted by the Legislature of the state of Utah:*

43 Section 1. Section **57-24-101** is enacted to read:

44 **CHAPTER 24. UTAH HOME INSPECTION STANDARD OF PRACTICE**

45 **57-24-101. Title.**

46 This chapter is known as the "Utah Home Inspection Standard of Practice."

47 Section 2. Section **57-24-102** is enacted to read:

48 **57-24-102. Definitions.**

49 As used in this chapter:

50 (1) "Alarm system" means any warning device, installed or free standing including,
51 carbon monoxide detectors, flue gas and other spillage detectors, security equipment, ejector
52 pumps, and smoke alarms.

53 (2) "Architectural service" means any practice involving the art and science of building
54 design for construction of any structure or grouping of structures and the use of space within
55 and surrounding the structures or the design for construction, including, schematic design,
56 design development, preparation of construction contract documents, and administration of the

57 construction contract.

58 (3) "Automatic safety control" means any device designed and installed to protect
59 systems and components from unsafe conditions.

60 (4) "Certifying" means to demonstrate minimal competency by successfully passing a
61 certification exam pertaining to the inspection of homes by a third party as recognized by the
62 Department of Occupational and Professional Licensing.

63 (5) "Client" means an individual who retains an inspector to perform the services
64 included in the definition of a home inspection.

65 (6) "Component" means a part of a system.

66 (7) "Decorative" means ornamental; not required for the operation of the essential
67 systems and components of a home.

68 (8) "Describe" means to report a system or by its type or other observed, significant
69 characteristics to distinguish it from other systems or components.

70 (9) "Dismantle" means to take apart or remove any component, device, or piece of
71 equipment that would not be taken apart or removed by a homeowner in the course of normal
72 and routine home owner maintenance.

73 (10) "Engineering service" means any professional service or creative work requiring
74 engineering education, training, and experience and the application of special knowledge of the
75 mathematical, physical, and engineering sciences to such professional service or creative work
76 as consultation, investigation, evaluation, planning, design, and supervision of construction for
77 the purpose of compliance with the specifications and design, in conjunction with structures,
78 buildings, machines, equipment, works, or processes.

79 (11) "Further evaluation" means examination and analysis by a qualified professional,
80 tradesman, or service technician beyond that provided by the home inspection.

81 (12) "Home inspection" means the process by which an inspector visually examines the
82 readily accessible systems and components of a home and which describes those systems and
83 components in accordance with this chapter.

84 (13) "Household appliances" mean kitchen, laundry, and similar appliances, whether
85 installed or free standing.

86 (14) "Inspect" means to examine readily accessible systems and components of a
87 building in accordance with this chapter, using normal operating controls and opening readily

88 accessible panels.

89 (15) "Inspector" means a person hired to examine any system or component of a
90 building in accordance with this chapter, but not a person hired to conduct an inspection for a
91 governmental entity.

92 (16) "Installed" means attached such that removal requires tools.

93 (17) "Normal operating controls" mean devices such as thermostats, switches, or
94 valves intended to be operated by the homeowner.

95 (18) "Readily accessible" means available for visual inspection without requiring
96 moving of personal property, dismantling, destructive measures, or any action which will likely
97 involve risk to persons or property.

98 (19) "Readily accessible panel" means a panel provided for homeowner inspection and
99 maintenance that is within normal reach, can be removed by one person, and is not sealed in
100 place.

101 (20) "Recreational facility" means any spa, sauna, steam bath, swimming pool,
102 exercise, entertainment, athletic, playground, or other similar equipment and associated
103 accessories.

104 (21) "Report" means to communicate in writing.

105 (22) "Representative number" means one component per room for multiple similar
106 interior components such as windows and electric outlets, and one component on each side of
107 the building for multiple similar exterior components.

108 (23) "Roof drainage systems" mean components used to carry water off a roof and
109 away from a building.

110 (24) "Shut down" means a state in which a system or component cannot be operated by
111 normal operating controls.

112 (25) "Significantly deficient" means unsafe or not functioning.

113 (26) "Solid fuel burning appliance" means a hearth and fire chamber or similar
114 prepared place in which a fire may be built and which is built in conjunction with a chimney; or
115 a listed assembly of a fire chamber, its chimney and related factory-made parts designed for
116 unit assembly without requiring field construction.

117 (27) "Standards of practice" means compliance with the construction or industry
118 standards required by this chapter.

119 (28) "Structural component" means a component which supports nonvariable forces or
120 weights (dead loads), and variable forces or weights (live loads).

121 (29) "System" means a combination of interacting or interdependent components
122 assembled to carry out one or more function.

123 (30) "Technically exhaustive" means an investigation that involves dismantling, the
124 extensive use of advanced techniques, measurements, instruments, testing, calculations, or
125 other means.

126 (31) "Underfloor crawl space" means the area within the confines of the foundation and
127 between the ground and the underside of the floor.

128 (32) "Unsafe" means a condition in a readily accessible, installed system or component
129 which is judged to be a significant risk of personal injury during normal, day-to-day use. The
130 risk may be due to damage, deterioration, improper installation, or a change in accepted
131 residential construction standards.

132 (33) "Wiring method" means identification of electrical conductors or wires by their
133 general type, such as "nonmetallic sheathed cable" ("Romex"), "armored cable" ("BX"), or "knob
134 and tube," etc.

135 Section 3. Section **57-24-103** is enacted to read:

136 **57-24-103. Inspection requirements.**

137 (1) This chapter establishes a minimum and uniform standard for private, fee-paid
138 home inspectors in Utah. Home inspections performed in accordance with this chapter shall
139 provide the client with information regarding the condition of the systems and components of
140 the home as inspected at the time of the home inspection.

141 (2) Inspectors shall inspect:

142 (a) readily accessible systems and components of homes listed in this chapter; and

143 (b) installed systems and components of homes listed in this chapter.

144 (3) Inspectors shall report:

145 (a) systems and components inspected which, in the professional opinion of the
146 inspector, are significantly deficient or are near the end of their service lives; and

147 (b) any system or component designated for inspection in this chapter that was present
148 at the time of the home inspection but was not inspected and a reason the system or component
149 was not inspected.

- 150 (4) This chapter is not intended to limit inspectors from:
151 (a) including other inspection services, systems, or components in addition to those
152 required by this chapter;
153 (b) specifying repairs needed, provided the inspector is appropriately qualified and
154 willing to do so; or
155 (c) excluding systems and components from the inspection if requested by the client.

156 Section 4. Section **57-24-104** is enacted to read:

157 **57-24-104. Structural system.**

158 (1) Inspectors shall inspect the structural components including foundation and framing
159 by probing a representative number of structural components where deterioration is suspected
160 or where clear indications of possible deterioration exist. Probing is not required when probing
161 would damage any finished surface or where no deterioration is visible.

162 (2) Inspectors shall describe the:

- 163 (a) foundation and report the methods used to inspect the underfloor crawl space;
164 (b) floor structure;
165 (c) wall structure;
166 (d) ceiling structure; and
167 (e) roof structure, including a report of the methods used to inspect the attic.

168 (3) Inspectors are not required to:

- 169 (a) provide any engineering service or architectural service; or
170 (b) offer an opinion as to the adequacy of any structural system or component.

171 Section 5. Section **57-24-105** is enacted to read:

172 **57-24-105. Exterior.**

173 (1) Inspectors shall inspect:

- 174 (a) the exterior wall covering, flashing, and trim;
175 (b) all exterior doors;
176 (c) attached decks, balconies, stoops, steps, porches, and their associated railings;
177 (d) the eaves, soffits, and fascias where accessible from the ground level;
178 (e) the vegetation, grading, surface drainage, and retaining walls on the property when
179 any of these are likely to adversely affect the building; and
180 (f) walkways, patios, and driveways leading to dwelling entrances.

181 (2) Inspectors shall describe the exterior wall covering.

182 (3) Inspectors are not required to inspect:

183 (a) screening, shutters, awnings, and similar seasonal accessories;

184 (b) fences;

185 (c) geological or hydrological conditions;

186 (d) recreational facilities;

187 (e) outbuildings;

188 (f) sea walls, break-walls, and docks; or

189 (g) erosion control and earth stabilization measures.

190 Section 6. Section **57-24-106** is enacted to read:

191 **57-24-106. Roof system.**

192 (1) Inspectors shall inspect:

193 (a) roof covering;

194 (b) roof drainage systems;

195 (c) flashes; and

196 (d) skylights, chimneys, and roof penetrations.

197 (2) Inspectors shall describe the roof covering and report the methods used to inspect
198 the roof.

199 (3) Inspectors are not required to inspect:

200 (a) antennae;

201 (b) interiors of flues or chimneys that are not readily accessible; or

202 (c) other installed accessories.

203 Section 7. Section **57-24-107** is enacted to read:

204 **57-24-107. Plumbing system.**

205 (1) Inspectors shall inspect the:

206 (a) interior water supply and distribution system including all fixtures and faucets;

207 (b) drain, waste, and vent systems including all fixtures;

208 (c) water heating equipment;

209 (d) vent systems, flues, and chimneys;

210 (e) fuel storage and fuel distribution systems; and

211 (f) drainage sumps, sump pumps, and related piping.

- 212 (2) Inspectors shall describe the:
- 213 (a) water supply, drain, waste, and vent piping materials;
- 214 (b) water heating equipment including the energy source; and
- 215 (c) location of main water and main fuel shut-off valves.
- 216 (3) Inspectors are not required to inspect:
- 217 (a) clothes washing machine connections;
- 218 (b) interiors of flues or chimneys that are not readily accessible;
- 219 (c) wells, well pumps, or water storage related equipment;
- 220 (d) conditioning systems;
- 221 (e) solar water heating systems;
- 222 (f) fire and lawn sprinkler systems; or
- 223 (g) private waste disposal systems.
- 224 (4) Inspectors are not required to determine:
- 225 (a) whether water supply and waste disposal systems are public or private;
- 226 (b) quantity or quality of the water supply; or
- 227 (c) whether safety valves or shut-off valves operate.

228 Section 8. Section **57-24-108** is enacted to read:

229 **57-24-108. Electrical system.**

- 230 (1) Inspectors shall inspect:
- 231 (a) service drop;
- 232 (b) service entrance conductors, cables, and raceways;
- 233 (c) service equipment and main disconnects;
- 234 (d) service grounding;
- 235 (e) interior components of service panels and subpanels;
- 236 (f) conductors;
- 237 (g) over current protection devices;
- 238 (h) a representative number of installed lighting fixtures, switches, and replacements;

239 and

- 240 (i) ground fault circuit interrupters.
- 241 (2) Inspectors shall describe:
- 242 (a) amperage and voltage rating of the service;

- 243 (b) location of main disconnect(s) and subpanels; and
- 244 (c) wiring methods.
- 245 (3) Inspectors shall report:
- 246 (a) the presence of solid conductor aluminum branch circuit wiring; and
- 247 (b) the absence of smoke detectors.
- 248 (4) Inspectors are not required to:
- 249 (a) inspect remote control devices unless the device is the only control device;
- 250 (b) inspect alarm system components;
- 251 (c) inspect low-voltage wiring, systems, and components;
- 252 (d) inspect ancillary wiring, systems, and components not a part of the primary
- 253 electrical power distribution system; or
- 254 (e) measure amperage, voltage, or impedance.

255 Section 9. Section **57-24-109** is enacted to read:

256 **57-24-109. Heating system.**

- 257 (1) Inspectors shall inspect:
- 258 (a) installed heating equipment; and
- 259 (b) vent systems, flues, and chimneys.
- 260 (2) Inspectors shall describe the:
- 261 (a) energy source; and
- 262 (b) heating method by its distinguishing characteristics.
- 263 (3) Inspectors are not required to:
- 264 (a) inspect interiors of flues or chimneys which are not readily accessible;
- 265 (b) inspect heat exchanger;
- 266 (c) inspect humidifier or dehumidifier;
- 267 (d) inspect electronic air filter;
- 268 (e) inspect solar space heating system; or
- 269 (f) determine heat supply adequacy or distribution balance.

270 Section 10. Section **57-24-110** is enacted to read:

271 **57-24-110. Air-conditioning systems.**

- 272 (1) Inspectors shall:
- 273 (a) inspect the installed central and through-wall cooling equipment; and

274 (b) describe the energy source and cooling method by its distinguishing characteristics.

275 (2) Inspectors are not required to:

276 (a) inspect electronic air filters; or

277 (b) determine cooling supply adequacy or distribution balance.

278 Section 11. Section **57-24-111** is enacted to read:

279 **57-24-111. Interior.**

280 (1) Inspectors shall inspect:

281 (a) walls, ceilings, and floors;

282 (b) steps, stairways, and railings;

283 (c) countertops and a representative number of installed cabinets;

284 (d) a representative number of doors and windows; and

285 (e) garage doors and garage door operators.

286 (2) Inspectors are not required to inspect:

287 (a) paint, wallpaper, and other finish treatments;

288 (b) carpeting;

289 (c) window treatments;

290 (d) central vacuum systems;

291 (e) household appliances; or

292 (f) recreational facilities.

293 Section 12. Section **57-24-112** is enacted to read:

294 **57-24-112. Insulation and ventilation.**

295 (1) Inspectors shall inspect:

296 (a) insulation and vapor retarders in unfinished spaces;

297 (b) ventilation of attics and foundation areas; and

298 (c) mechanical ventilation systems.

299 (2) Inspectors shall describe:

300 (a) insulation and vapor retarders in unfinished spaces; and

301 (b) absence of insulation in unfinished spaces at conditioned surfaces.

302 (3) Inspectors are not required to:

303 (a) disturb insulation or vapor retarders; or

304 (b) determine indoor air quality.

305 Section 13. Section **57-24-113** is enacted to read:

306 **57-24-113. Fireplaces and solid fuel burning appliances.**

307 (1) Inspectors shall inspect:

308 (a) system components; and

309 (b) vent systems, flues, and chimneys.

310 (2) Inspectors shall describe:

311 (a) fireplaces and solid fuel burning appliances; and

312 (b) chimneys.

313 (3) Inspectors are not required to:

314 (a) inspect interiors of flues or chimneys;

315 (b) inspect fire screens and doors;

316 (c) inspect seals and gaskets;

317 (d) inspect automatic fuel feed devices;

318 (e) inspect mantles and fireplace surrounds;

319 (f) inspect combustion make-up air devices;

320 (g) inspect heat distribution assists whether gravity controlled or fan assisted;

321 (h) ignite or extinguish fires;

322 (i) determine draft characteristics; or

323 (j) move fireplace inserts, stoves, or firebox contents.

324 Section 14. Section **57-24-114** is enacted to read:

325 **57-24-114. General limitations and exclusions.**

326 (1) Home inspections performed in accordance with this chapter shall include the
327 following general limitations:

328 (a) that the inspection is not technically exhaustive and will not identify concealed
329 conditions of latent defects; and

330 (b) that the inspection is applicable to buildings with four or fewer dwelling units and
331 their garages or carports.

332 (2) Home inspections performed in accordance with this chapter shall include the
333 following general exclusions:

334 (a) inspectors are not required to perform any action or make any determination unless
335 specifically stated in this chapter, except as may be required by lawful authority; and

- 336 (b) inspectors are not required to determine:
- 337 (i) condition of systems or components which are not readily accessible;
- 338 (ii) remaining life of any system or component;
- 339 (iii) strength, adequacy, effectiveness, or efficiency of any system or component;
- 340 (iv) causes of any condition or deficiency;
- 341 (v) methods, materials, or costs of corrections;
- 342 (vi) future conditions including failure of system or components;
- 343 (vii) suitability of the property for any specialized use;
- 344 (viii) compliance with regulatory requirements such as codes, regulations, laws, and
- 345 ordinances;
- 346 (ix) market value of the property or its marketability;
- 347 (x) advisability of the purchase of the property;
- 348 (xi) presence of potentially hazardous plants or animals including wood destroying
- 349 organisms or diseases harmful to humans;
- 350 (xii) presence of any environmental hazards including toxins, carcinogens, noise, and
- 351 contaminants in soil, water, and air;
- 352 (xiii) effectiveness of any system installed or methods utilized to control or remove
- 353 suspected hazardous substances;
- 354 (xiv) operating costs of systems or components; or
- 355 (xv) acoustical properties of any system or component.
- 356 (c) Inspectors are not required to offer or perform:
- 357 (i) any act or service contrary to law;
- 358 (ii) engineering services;
- 359 (iii) work in any trade or any professional service other than home inspection; or
- 360 (iv) offer warranties or guarantees of any kind.
- 361 (d) Inspectors are not required to operate:
- 362 (i) any system or component which is shut down or otherwise inoperable;
- 363 (ii) any system or component which does not respond to normal operating controls; or
- 364 (iii) shut-off valves.
- 365 (e) Inspectors are not required to enter:
- 366 (i) any area which will, in the opinion of the inspector, likely be dangerous to the

- 367 inspector or other persons, or damage the property or its systems or components; or
368 (ii) under floor crawl spaces or attics which are not readily accessible.
369 (f) Inspectors are not required to inspect:
370 (i) underground items including storage tanks or other underground indications of their
371 presence, whether abandoned or active;
372 (ii) systems or components which are not installed;
373 (iii) decorative items;
374 (iv) systems or components located in areas that are not entered in accordance with this
375 chapter;
376 (v) detached structures other than garages and carports; or
377 (vi) common elements or common areas in multiunit housing, such as condominium
378 properties or cooperative housing.
379 (g) Inspectors are not required to:
380 (i) perform any procedure or operation which will, in the opinion of the inspector,
381 likely be dangerous to the inspector or other persons or damage the property or its components;
382 (ii) move or suspend ceiling tiles, personal property, furniture, equipment, plants, soil,
383 snow, ice, or debris; or
384 (iii) dismantle any system or component, except as explicitly required by this chapter.
385 Section 15. Section **57-24-115** is enacted to read:
386 **57-24-115. Utah home inspector code of ethics.**
387 (1) Home inspectors shall conform to the principles of honesty, justice, and courtesy as
388 a set of dynamic principles guiding their conduct. It is their duty to practice the profession
389 according to this chapter.
390 (2) To protect their professional integrity, the home inspectors will discharge their
391 duties with fidelity to the public, their clients, and with fairness and impartiality to all. They
392 shall uphold the honor and dignity of their profession and avoid association with any enterprise
393 of questionable character, or apparent conflict of interest.
394 (3) Inspectors shall:
395 (a) express an opinion only when it is based on practical experience and honest
396 conviction;
397 (b) always act in good faith toward each client;

398 (c) not disclose any information concerning the results of the inspection without the
399 approval of the clients or their representatives;

400 (d) not accept compensation, financial or otherwise, from more than one interested
401 party for the same service without the consent of all interested parties;

402 (e) not accept nor offer commissions or allowances, directly or indirectly, from other
403 parties dealing with their client in connection with the work for which the home inspector is
404 responsible;

405 (f) (i) promptly disclose to his client any interest in a business which may affect the
406 client; and

407 (ii) not allow an interest in any business to affect the quality of the results of the
408 inspector's inspection work which they may be called upon to perform; and

409 (g) make every effort to uphold, maintain, and improve the professional integrity,
410 reputation, and practice of the home inspection profession.

411 Section 16. Section **57-24-116** is enacted to read:

412 **57-24-116. Time to file grievance by client.**

413 A home inspection is an evaluation of property at a particular point in time, but not
414 meant to be a warranty of any kind to the client. The maximum time that a client may
415 commence a suit against an inspector for failure to fully comply with an inspection as provided
416 under this chapter is one year from the date of the inspector's inspection.