

Approved: SRB 2/02/07  
Date

## MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Steve Brunk at 9:07 A.M. on February 09, 2007 in Room 231-N of the Capitol.

All members were present except:  
Brenda Landwehr- excused

Committee staff present:  
Jerry Ann Donaldson, Kansas Legislative Research Department  
Dustin Slinkard, Office of Revisor of Statutes  
Stephen Bainum, Committee Assistant

Conferees appearing before the committee:

Jeff Barnes  
Kerry Parham  
Shane Pouch  
Hal Hudson  
Luke Bell  
Dan Bowers  
Stacy Van Houtan  
Michael Greenwalt  
Patricia Peters  
Callie Hartle  
John Lyle

Others attending:  
See attached list.

The Chairman mentioned two bills that were being withdrawn as committee bills but would continue as individual bills. One was the Taxpayers Transparency Website Bill and the other was the Homeowners Association Bill.

The Chairman appointed two members, Representative Grange and Representative Ruiz, to work out the language on the Contractor Education bill.

The Chairman opened the hearing on **HB 2315 Home inspectors competency and financial responsibility**. He asked everyone to hold their questions until all the proponents had presented their testimony.

Jeff Barnes, Kansas Association of Real Estate Inspectors Ltd. testified as a proponent of **HB 2315 (Attachment 1)**.

Kerry Parham, President, Midwest Pro-ASHI Chapter testified as a proponent of **HB 2315 (Attachment 2)**.

Shane Pouch, Owner, Outlook Inspection Services, Inc., Olathe, KS appeared in support of **HB 2315 (Attachment 3)**.

Hal Hudson, Executive Director, Kansas Pest Control Association testified as a proponent of **HB 2315 (Attachment 4)**.

Luke Bell, Kansas Association of Realtors, testified as a proponent of **HB 2315 (Attachment 5)**.

Representative Tietze asked if the home inspectors would not be able to get insurance for errors and omissions. The answer was that many companies offer such insurance. The premium would be high for someone just starting out. Companies have shown interest in providing a bond procedure for start up companies.

Representative Grant asked what the usual price was for a home inspection. Everyone inspector is an independent contractor and sets their own price.

## CONTINUATION SHEET

MINUTES OF THE House Commerce and Labor Committee at 9:07 A.M. on February 09, 2007 in Room 231-N of the Capitol.

Representative Huntington asked regarding page 1, line 34 who is in charge? Local communities set their own codes. Who is responsible outside the metropolitan area? There are usually code enforcement people involved but they only look at the plans. They do not have the resources to do inspections to enforce the code.

Representative Goico asked what is the test for a home inspector. Each organization sets its own standard. We are suggesting that all inspectors take a proctored exam, meaning someone knows who you are. Do they change? It is a national standard test with rotating questions so that they change on each test. Is the \$1000.00 limit considered punitive damages? No, it is for the protection of the home owner and it is based on the history of claims. Most claims are small, from \$100.00 to 150.00.

Representative Pauls mentioned that the bill excluded architects but not professional engineers. Is there a problem with engineers doing home inspections? Historically we have not had a problem with architects go into existing homes and doing an inspection whereas we do have engineers doing inspections. What is the range of costs for a home inspection? \$100.00 to \$275.00. Why are we setting up a new board? The real estate industry felt that it was important to set up a board specifically governed by the Home Inspection industry. How is the new board to be funded when it first starts up? Individual inspectors will have to bear the burden of starting the board up. There is a cap of \$200.00 on registration but no cap on other fees. The reason was to allow the board the discretion to pay for the cost on instituting the association.

Representative Grange asked where the board will sit and who will pay for it. Is there a fiscal note on it? The board can set anywhere they choose and the expenses will be paid by the members. There should be no state expenses involved with it. The expenses paid for mileage, etc. is based on what other boards have done. No expenses would be paid until the funds come in.

The Chairman opened the hearing to the opponents of the bill.

Dan Bowers CRI, CMI, testified in opposition to **HB 2315** (Attachment 6).

Stacey Van Houtan, President of the Local NAHI testified as an opponent of **HB 2315** (Attachment 7).

Michael Greewalt, a member of the National Association of Home Inspectors testified in opposition to **HB 2315** (Attachment 8).

Callie Hartle, of the Kansas Trial Lawyers Association testified as an opponent of **HB 2315** (Attachment 9).

The Chairman advised the committee that he would open the meeting to those registered as neutral and then hear questions.

John Lyle, P.E., Vice-President of Professional Engineering Inspections, Inc. testified as neutral on **HB 2315** (Attachment 10).

Representative Ruff asked John Lyle if he could pass the test for home inspectors. He replied that he certainly thought so.

There were no more questions.

The Chairman advised that he would not close the hearing since there were others who wanted to testify. The hearing would be heard at a later time and we will give everyone from out of town an opportunity to testify.

The Chairman adjourned the meeting at 10:45 A.M.

COMMERCE AND LABOR COMMITTEE

Date 2-9-07

NAME	AGENCY
Hal Hudson	KPCA
Callie Denton Hattle	KTLA
Chris Wilson	KBIA
Martha Sue Smith	KMHA
Larry Magill	KAIA
Lee Wright	Farmers Ins.
Don Gaches	KSPE
Steve Paul	Outlook Inspection Services
Randy Sipo	Family Home Inspection Services
Miki Mertz	Complete Home Inspection
[Signature]	Kansas Assoc. of Real Estate Inspectors
Kerry Parham	Midwest Pro ASHI Chapter
Mike Reecht	KAREI
John Lyle	Professional Engineering Inspections Inc.



KANSAS ASSOCIATION  
OF  
REAL ESTATE INSPECTORS Ltd.

12601 Jayson Lane - Wichita, Kansas 67235

www.karei.org

Phone: 316-393-0735

Fax: 316-777-9209

TO: Members of the House Committee on Commerce and Labor

FROM: Jeff Barnes, President, Kansas Association of Home Inspectors

RE: HB 2315

DATE: February 5, 2007

Over the past several years we have been fighting back legislation designed to regulate our industry which was supposedly designed to provide consumer protection by eliminating the inspectors' right to use nationally accepted standards to guide his or her inspections, or establish mutually agreeable contracted terms with the client. The problem with these past bills was the language used would have had the opposite effect because the authors did not understand the intricacies of our industry and how the inspection process works. We have never denied that reform of our industry was needed, however we did insist that any regulation perform the function it was designed to perform. HB 2315 is the bill to do this. Our members have been working for three years to craft language which would address four basic issues:

1. Provide consumer protection by requiring the inspectors operating in Kansas to meet minimum competency standards including training and testing.
2. Provide consumer protection by requiring the inspectors operating in Kansas to maintain competency by establishing minimum continuing education requirements.
3. Provide consumer protection by establishing a baseline limit of liability, which allowed the inspectors to maintain reasonable inspection fees while providing financial protections for the client.
4. Provide the client information which would more accurately define and explain the inspection process and discuss any limits to the inspection or the inspectors' liability.

Not only does HB 2315 accomplish these four goals, but because of the collaboration between KAREI, the real estate community, and Rep. Tom Sloan we have been able to draft language which goes much farther in providing guidelines to insure a viable inspection industry which can grow and mature with proper oversight and guidance from industry leaders which are true stakeholders in the process of real estate transfers.

Your positive consideration of HB 2315 will be a step forward in providing industry reforms which will insure Kansans from all areas of the state have access to qualified inspectors at rates which are affordable for buyers at all socioeconomic levels. You will also be insuring that with this one piece of legislation you have provided significant protections for your constituents back home for which you can be proud to say you supported.

We respectfully urge your support of HB2315.

H Commerce and Labor  
2-9-07  
(Attach. 1)



# Midwest Pro-ASHI Chapter

Members in Iowa - Kansas - Missouri  
Chapter President, **Kerry Parham** • Wichita, KS

## Wichita Regional Inspection Group

February 5, 2007

To: House Committee on Commerce and Labor  
RE: Position Statement HB 2315

Dear Committee Members:

The American Society of Home Inspector's Midwest Pro-ASHI Chapter is the largest home inspector organization in the state, outside of the Kansas City area. **As president of the group I speak for its members, and we overwhelmingly support HB 2315 in its current form, and urge its passage.** This bill is the result of over two years of discussion and negotiation with important stakeholders, including the Kansas Association of Realtors. **This bill contains many key provisions, some of which if changed would cause us to withdraw our support.**

**It is crucial that the bill be passed in its current form**, so as not to create a burdensome warranty or insurance program that would ultimately result in loss of qualified home inspector members. We must carefully balance the need to protect consumers with the cost of such requirements. High-limit warranty and/or insurance programs would cripple our industry, creating the reverse affect intended for the general population. Home inspectors, especially those in rural communities or those less established, would find the cost of doing business too high and would drop out or go underground. Many homebuyers might perceive home inspections are too expensive, and take their chances. An analogous situation has been debated in the deep-south regarding childcare. Proposed legislation intended to improve childcare, by further limiting the number of children a provider can care for, can have the opposite intended result. Increased cost causes those marginalized individuals to find other unregulated or unsafe options, because they can no longer afford the "improved" requirements. For nearly all homebuyers, a quality home inspection by a "certified" member of a professional home inspector association, subject to limits of liability, is much preferable to a purchase without an inspection, or review by an unqualified family member or friend. The homebuyer's greatest protection against an unqualified home inspector is to choose a "certified" member of ASHI. This registration bill assures homebuyers that their inspector is a member of a national home inspector organization with accepted standards of practice, code of ethics, competency testing, and continuing education requirements.

Kerry Parham, President  
Midwest Pro-ASHI Chapter  
12601 Jayson Lane  
Wichita, KS 67235  
**(316) 722-2999 (office)**  
[terrainspections@cox.net](mailto:terrainspections@cox.net)

H Commerce & Labor  
2-9-07  
(Attach 2)

TO: Members of the House Committee on Commerce and Labor  
FROM: **Shane Pouch**, Owner, Outlook Inspection Services, Inc., Olathe, KS  
RE: **House Bill No. 2315, Session of 2007**  
DATE: February 8, 2007

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As a home inspector in the state of Kansas, I believe that House Bill No. 2315 will provide important consumer protections, while affording businessmen like myself the chance to conduct business in a manner that both protects the public and at the same time allows me to protect my livelihood.

Several previous attempts have been made to enact laws over the home inspection industry, but none have been written as comprehensively as this bill, nor have any been written on a collaborative basis.

House Bill No. 2315 will establish minimum competency standards, including training and testing, and will require inspectors operating in Kansas to maintain a minimum level of continuing education requirements. Furthermore, this bill will establish minimum levels of financial liabilities.

Legislation of our industry is a vital step in the advancement of the home inspection industry as a profession. This will have long-term ramifications that will surely benefit, and protect, all those associated with real estate transfers.

In conclusion, I hereby request your thoughtful consideration of House Bill No. 2315 and respectfully call for your support of it.

H Commerce + Labor  
2-9-07  
(Attach 3)

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**Statement by  
Hal Hudson, Executive Director  
Kansas Pest Control Association  
Before the House Commerce & Labor Committee  
On House Bill 2315  
Friday, February 9, 2007**

Mr. Chairman Members of the Committee:

Thank you for this opportunity to address our concern with HB 2315.

My name is Hal Hudson, and I am the Executive Director of the Kansas Pest Control Association (KPCA) – a position some of you may be surprised to learn that I have held since September 1994.

Yesterday, you heard from Jeff Wells of KPCA about qualifications for wood destroying insect inspectors (WDI). Today, I want to call to your attention the fact that HB 2315 acknowledges and separates WDI from home inspectors generally.

Our interest in this bill is solely to urge you to retain language found on page 1, lines 37 and 38, and on page 3, line 30 – section (k), which says provisions of this act do NOT apply to wood destroying inspectors.

Since the persons we believe should be conducting inspections for wood destroying insects already are certified applicators licensed by the Kansas Department of Agriculture, we think no further licensing requirement should be imposed on these inspectors.

Otherwise, we do not have a position on the remainder of the bill.

Thank you. I will stand for questions at the pleasure of the committee.

H Commerce & Labor  
2-9-07  
(Attach 4)





To: House Commerce and Labor Committee  
From: **Luke Bell**, KAR Director of Governmental Relations  
Date: February 9, 2007  
Subject: **HB 2315** – Professional Competency and Financial Responsibility of Home Inspectors

Chairman Brunk and members of the House Commerce and Labor Committee, thank you for the opportunity to appear today on behalf of the Kansas Association of REALTORS® (KAR) to offer testimony in support of **HB 2315**. KAR is a trade association which has faithfully represented the 10,000 real estate professionals in the state of Kansas for over 85 years.

**HB 2315** would establish the Kansas Home Inspectors Registration Board and create a regulatory framework for the home inspection industry in the state of Kansas. There are currently 31 states which regulate the home inspection industry. As the number of consumers taking advantage of home inspections in the home-buying process continues to increase, it is increasingly important that consumers can be guaranteed they will be receiving home inspection services from a qualified professional who will adequately identify defects in for-sale properties.

KAR believes that **HB 2315** is a major step forward in protecting consumers from receiving home inspections services from unqualified home inspectors and ensuring that the home inspection industry is regulated by the state in a manner that will benefit consumers.

Under K.S.A. 58-30-106(d)(1), real estate licensees are required to disclose to the buyer all “material facts actually known” by the real estate licensee. REALTORS® are not property inspection experts; therefore, they routinely recommend that their clients seek home inspection services from a qualified home inspector in order to ascertain the true condition of the property which is for sale.

In a 2001 study conducted by the National Association of REALTORS® (NAR) and the American Society of Home Inspectors (ASHI), 99 percent of REALTORS® responded that they recommend their clients have a home inspection conducted before they purchase a home. Therefore, REALTORS® and their clients rely on the expertise of qualified home inspectors to identify material defects in the systems and components of a home prior to the sale of real estate.

Under current Kansas law, there are absolutely no requirements that an individual must meet to offer his or her services as a home inspector to members of the public. If an individual wanted to begin the practice of home inspection currently in the state of Kansas, all he or she would need to do is place an advertisement in the yellow pages offering his or her services as a home inspector. Under this current system, there is absolutely no mechanism by which the consumer can ascertain whether or not a home inspector is qualified to conduct home inspections.

*H Commerce + Labor  
2-9-07  
(Attach 5)*



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**HB 2315** would establish the Kansas Home Inspectors Registration Board to oversee the regulation of the home inspection industry in the state of Kansas. **HB 2315** would create an independent regulatory framework whereby an independent state board made up of a majority of home inspectors would be allowed to regulate the home inspection industry in the state of Kansas by establishing registration qualifications, requiring proof of liability insurance and financial responsibility assurance mechanisms and disciplining home inspectors who harm consumers through negligent or deficient home inspections.

**HB 2315** would also prohibit home inspectors from limiting their liability for errors and omissions during the home inspection to the price of the home inspection. Currently, nothing prevents a home inspector from including a provision in a home inspection contract which limits their liability for errors and omissions to the price of the home inspection.

For example, if the price of the home inspection is \$250, then a consumer's recovery for any errors and omissions of the home inspector is limited to less than \$250. In most cases, the home inspector will simply refund the home inspection fee directly to the consumer. There are currently no other professions in the state of Kansas which are allowed to contractually limit their liability to less than the price of the contractually-provided services.

When a home inspector fails to adequately follow his or her standards of practice in conducting a home inspection and a consumer suffers a harm which directly results from the errors and omissions of the home inspector, it is fundamentally unfair for that consumer to have absolutely no recourse against the home inspector for his or her negligence. A major responsibility for someone who purports to call themselves a professional is accepting responsibility and providing recovery to a consumer who is harmed by errors and omissions made in the process of providing professional services.

**HB 2315** would prohibit a home inspector from including any provision in an agreement to conduct a home inspection which would disclaim liability for any errors and omissions which may arise during a home inspection or limit the amount of damages for liability for any errors and omissions to less than \$1,000 in the aggregate for each home inspection.

Some will argue that this would drive a great deal of home inspectors out of the business and increase home inspection fees to a point where home inspections would no longer be affordable. However, this argument is superfluous and an obvious red herring. In most of the 31 states that currently regulate home inspectors, the cap on liability limitations is much higher than the proposed \$1,000 cap in **HB 2315**. There is no evidence to support the fact that any increased regulation has driven home inspectors out of the business or made home inspections unaffordable for consumers.

Furthermore, ensuring that a home inspector is liable for at maximum \$1,000 for his or her errors and omissions will not make home inspectors a target for increased litigation from trial attorneys and plaintiffs with frivolous claims. Instead, **HB 2315** will simply ensure that if a consumer is legitimately harmed by a negligent home inspection that the consumer has the ability to obtain reasonable compensation from the negligent home inspector to recover for the harm which directly resulted from the negligent home inspection.

KAR wholeheartedly supports the concept of home inspector regulation and would ask you to support **HB 2315** so that home inspectors who fail to adhere to professional industry standards are identified and regulated in a way which protects consumers to the maximum possible extent.



**KARCI™**

**KANSAS ASSOCIATION OF RESIDENTIAL & COMMERCIAL INSPECTORS**  
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**KARCI's position is simple. We're not opposed to regulation if we see an overwhelming demonstrated need for it. If we see that lack of regulation of our profession is causing significant financial damage to the general public – we'll lead the charge up the hill to get licensed.**

**That however is not the case. We're not perfect, but polling of groups like the BBB, the Attorney Generals Office, and other consumer activist groups over the past 3 years, indicate even florists have more complaints than home inspectors.**

**KARCI is 100% opposed to special outside interests like Realtors, Trial Attorneys and Home Builders trying to introduce or start licensure of OUR BUSINESS. Especially when that means that these special interest groups are trying to shift liability off themselves or simply make it easier for someone to sue us with a frivolous lawsuit. The Board & Officers of KARCI will fight this until they can't fight anymore.**

In light what has been going on the last several months regarding legislative actions and introduction of bills from **KAR** and the trial lawyers – KARCI did a survey of all known home inspectors in the state in October & November 2006. Certain survey questions and their responses indicate a problem with RE Agents that are involved with the inspection process - and also indicates that some RE Agents are practicing tactics that deceive and control the inspector and the potential buyer with the end goal being to make sure the commissioned salesperson gets their commission. Examples of this are in the following survey responses that were seen or learned by the inspector during an inspection:

Question # 3 on the survey was **“Do licensed real estate agents tried to influence what you report in the inspection by taking you aside, out of earshot of the buyer or when they leave the room, and making comments like: “They're buying the house as-is” OR “They only want to know about really BIG problems” OR “The seller won't fix anything – so go easy here”?”**. *The majority of inspector surveyed said YES and the responses were from both City and Rural inspectors in Kansas.*

Question # 12 on the survey was **“Has a licensed real estate agent told you or the client that they were not a property condition expert in something, but then immediately started telling you or the client that they see this ..... all the time, and its no big deal and does not need repair or further evaluation?”** *The majority of inspector's survey said YES and the responses were from both City and Rural inspectors in Kansas.*

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(Attach(6))

Question # 13 on the survey was **“Has a licensed real estate agent threatened to “blackball” you, take you off of their company list of vendors, or tell agents in their office not to use you because you’re picky if you don’t “soft-sell”, down-play or not mention certain defects to the client?”** *More than a third of the inspectors who responded to this question indicated they had been threatened by a RE Agent and this occurred more in the City than in the rural areas of both Kansas.*

Question # 14 on the survey was **“Have you discovered that licensed real estate agents, brokers or a real estate office in your area has put together a small list of “preferred inspectors” OR vendors, and attempt to “steer” the clients to ONLY use the inspectors on their list? The implication is that many of these lists are filled with only those inspectors that “don’t make waves”.”** *Over three fourths (75%) of the responses were YES from inspectors surveyed. These Responses were from both Rural and City inspectors from Kansas..*

Question # 20 on the survey was **“Do licensed real estate agents tell you they are working as a “buyers agent”, but by most of their actions seem more concerned about the commission than the buyer?”** *The majority of inspector’s survey said YES and the responses were from both City and Rural inspectors in Kansasi.*

Question # 23 on the survey was **“It is well known that all national and state home inspector associations, and in states that have home inspector regulation that the inspection report is the property of the client. Do licensed real estate agents ever call you stating the 1st deal flipped and they want more copies of the report to give to another buyer to save the new buyer some money ( in essence wanting you to illegally give away something that you don't own and the previous buyer paid for)?** *The majority of inspector’s survey said YES and the responses were from both City and Rural inspectors in Kansas.*

Question # 25 on the survey was **“Were you aware of the fact that real estate agents in Kansas and Missouri are not required to have "E and O insurance" to get a real estate license?”** *Two thirds of the inspectors **did not realize** that RE Agents were not required to have E & O insurance. The majority of these responses came from the Rural Inspector.*

Question # 26 on the survey was **“Do you feel that it would benefit the buyers, sellers, lenders, etc if licensed real estate agents were required to have more classroom training (such as in the home inspection process)?”** *Over 85 percent of the responses from inspectors indicated that RE Agents do need additional training. This was from Kansas inspectors whether they were in Rural or City areas.*

Question # 27 on the survey was **“Do you feel that it would benefit the buyers, sellers, lenders, Inspectors, etc if real estate agents were required to have E&O Insurance as part of the licensing process?”**

*The majority of inspectors responded that YES this would benefit the clients of inspectors that the RE Agent be required to have E & O insurance. Both Rural and City inspectors in Kansas felt this would be beneficial to their clients.*

Question # 28 was **“Have you or one of your inspection clients been deceived, lied to, or misled about existing property conditions or defects by a "Licensed Real Estate Agent"?”** *The majority of inspectors responded YES to this question and the responses were from both Rural and City inspectors in Kansas.*

Question # 29 was **“Has a "licensed real estate agent" withheld or not disclosed information about known property defects from you or your inspection client?”** *The majority of inspectors responded YES to this question and the responses were from both Rural and City inspectors in Kansas.*

Thank You for Your Attention,

**Dan Bowers, CRI, CMI**

Past President – Midwest Pro-ASHI & Great Plains ASHI Chapters  
Past National Board of Directors, ASHI  
Certified Real Estate Inspector, NAHI  
ASHI Member #1038  
Certified Master Inspector, NACHI  
Certified IAQ2 Mold Inspector  
FHA Compliance Inspector  
EDI Certified Stucco / EIFS Inspector  
NRSB Certified Radon Measurement Specialist  
Code Certified Residential Dwelling Inspector



## KANSAS STATE BOARD OF TECHNICAL PROFESSIONS

(913) 296-3053

Suite 507, Landon State Office Building 900 Jackson Street Topeka, Kansas 66612-1214

January 28, 1993

D.L. Bowers  
7202 Switzer  
Shawnee Mission, KS 66203

RE: Professional Engineers Performing Home Inspections

Dear Mr. Bowers:

The Board of Technical Professions met on January 12, 1993, to review inquiries, complaints, and correspondence. The Board directed me to write you regarding the above-captioned matter.

It is the opinion of the Board of Technical Professions that a licensed architect or professional engineer is not required on the average home inspection.

Pursuant to K.S.A. 74-7031(b) and K.S.A. 74-7033(b), "Persons preparing plans, drawings or specifications for one and two family dwellings or for agricultural buildings", are exempt from the practice of architecture and engineering. (See enclosed copy of the statutes and rules and regulations of the Board of Technical Professions.)

Therefore, the types of services described in your letter do not fall under the jurisdiction of the Kansas State Board of Technical Professions.

Sincerely,

A handwritten signature in cursive script that reads "Betty L. Rose".

Betty L. Rose  
Executive Director

BLR:pa  
Enc.

6-4

## Sample of Realtor's Exposure To Home Inspections

Average Sales Price In The Metropolitan Kansas City & Lawrence Area  
(\$192,000)

Dollar Sales Volume	# of Sales	** 65% of Sales Get Inspected
1 Million Dollar Producer	5.2 Sales	3.5 Home Inspections
2 Million Dollar Producer	10.4 Sales	7 Home Inspections
3 Million Dollar Producer	15.6 Sales	10.14 Home Inspections
4 Million Dollar Producer	20.8 Sales	14 Home Inspections

\*\* Several Survey's of local Home Inspectors, Lenders, Realtors, etc indicate that approximately 65% of all home sales get inspected. The reasons the other 35% don't get inspected are for issues such as:

- (a) it was new construction and the buyers didn't think they needed an inspection;
- (b) they had a friend or relative in the construction trades look at it for them;
- (c) they were buying on a VA or FHA loan and someone told them the Appraiser would inspect the house so they didn't need to waste their money on an inspection;
- (d) they thought they'd save some money and inspect it themselves (he'd watched his uncle build a deck a few years ago and felt he new all about construction);
- (e) they had a friend that was a licensed engineer and their friend inspected it for them (his degree was in plastics robotic engineering);
- (f) their Realtor talked them out of having an inspection (they're so expensive), etc, etc;
- (g) the seller was really nice – surely he'd of told them if anything was wrong;
- (h) **various other valid reasons such as those listed above**

**A recent report by the KCRAR (Kansas City Association of Realtors) indicated that 43% of all Realtors have been in business less than 3 Years.**

That means half of our Realtors will have only seen between 3.5 to 42 home inspections

**Bottom Line is they're simply not qualified to be judging whats good or bad**

THE HOME INSPECTION AND CONSTRUCTION CO.

6810 A North Brookside – Liberty MO 64068

816.786.7730 - Fax 816.817.0605

[staceyvanhoutan@sbcglobal.net](mailto:staceyvanhoutan@sbcglobal.net)

The Honorable Representative on the Labor & Commerce Committee

RE: Bill HB 2315

Dear Representative

As a Home Inspector doing business in Kansas and the President of the Local NAHI (National Association of Home Inspectors) chapter, I would like to express my opposition to HB 2315.

The Main reasons I have are as follows:

- As I understand Kansas Law, it follows the general principle that competent parties may make contracts on their own terms, provided they are neither illegal nor contrary to the public policy. And unless fraud, a mistake or duress was involved the contract is binding. This Bill will limit my ability to make my "own terms" in my contract by causing me to have a mandatory fixed financial liability to the consumer. This then will cause an increase in cost to the consumer without the consumer's consent. Some Home Inspectors, as I do, offer an unlimited liability inspection if the consumer would like to pay for the extra service. We should leave the choice to the consumer.
- A real estate broker and its real estate agent purposely inject themselves into the independent investigation of the property by providing a list of inspectors to the buyer. If we, as inspectors, are to take the liability of the inspection then we want to clarify the role of those involved in real estate matters and let the consumer find inspectors from a non-vested individual, not a real estate agent that only makes money if the deal is closed. I feel that the real estate agent *should not* refer home inspections.
- I have seen no demonstrated need for HB 2315. When I contacted the Consumer Protection & Antitrust Division of Kansas, there were no recorded complainants. Douglas and Wyandotte County Consumer Protection Division also had no complaints.
- Currently there is a justifiable reliance on real estate brokers and agents by home buyers as to the inspection process. This is due to their level of involvement in the choosing of an inspector, involvement of the actual inspection and negotiation of the unacceptable conditions in a real estate transition. Due to this reliance of the consumer on brokers and agents, we as home inspectors are only part of a process. Fraud by silence, deceptive practices, and breach of duty are some things I have seen first hand in the inspection process by both inspectors and agents. But on a level that is neither on the increase nor more prevalent than in any other industry. HB 2315 as written will not help the real estate consumer.

Thank you for your time, sincerely

Stacey Van Houtan

H Commerce & Labor  
2-9-07  
(Attach 7)

February 9, 2007

The Honorable Steven Brunk, Chair  
Members of the Commerce and Labor Committee  
State Capitol Building  
Topeka, Kansas

Dear Representative Brunk and Committee Representatives:

My name is Michael Greenwalt, and as a member of the National Association of Home Inspector (NAHI) National Legislative Committee, the President-elect of the Heartland NAHI Chapter, and President-elect of the Kansas Association of Residential and Commercial Inspectors (KARCI), I would like to express that NAHI, KARCI, and the members of NAHI Heartland Chapter are opposed to HB2315.

Prior to enacting further regulatory control of businesses in Kansas the following items should be researched and satisfied:

1. Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety or welfare of the public, and whether the potential for harm is easily recognizable and not remote or dependent on tenuous argument;
2. Whether the public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional or occupational competence;
3. Whether the public can be adequately protected by other means in a more cost-effective manner; and
4. Has there been a demonstrated need for consumer protection through legislative measures.

The Better Business Bureau of Kansas reports less than 15 complaints against home inspectors in the past three years. NAHI reports zero (0) complaints against home inspectors in the past 2 ½ years, and the States Attorney Generals office annual report of Consumer Protection and Antitrust Division does not report enough complaints to generate a line item in the report. The rare of complaints on home inspectors is minimal. Further, the number of home inspections that are performed, and subsequently, the number of aggrieved consumers are declining proportionate to the decreased number of real estate transactions.

According to the Kansas Chamber of Commerce Economic study in 2005, a majority of Kansans believe that reducing the cost of government is the best economic strategy. A survey of over 300 business leaders in the state considered the states regulatory control one of the largest negative impacts on business. This bill does nothing to address those concerns.

This bill is restrictive in nature and hinders the ability of Kansas entrepreneurs to establish and operate a growing industry in Kansas. While we will never realize the approximately 17,000 membership known in the Real Estate industry in Kansas we are no less a voice to be heard. It is said that one honest voice speaks louder than a crowd. We ask you to listen to an honest voice.

This past year several associations have attempted to use deception, false statements, and PAC influence to position leaders, to get this bill where it is today. Hopes of controlling our industry, dreams of Governor appointed committee positions, and dreams of using legislative action as a powerful marketing tool have been a direct cause. As

H Commerce + Labor  
2-9-07  
(Attach 8)



professional home inspectors we certainly realize that our clients need competent services, and our customers, <including Brokers, Real Estate Agents, and Sales offices> depend on our competency in the transaction. This does not however place the home inspection industry subservient to the Real Estate industry in this state. This bill, and the past years actions of the Kansas Association of Realtors (KAR) would lead you to believe otherwise. This bill has been presented primarily on the tenuous arguments of KAR and a few other home inspectors in the state that view this as a means of control, a marketing tool, and a road to Governor Appointments.

However this is not an attempt to place the blame entirely on the shoulders of KAR, and those few leaders, nothing happens without the silence of those affected. Ours is an industry plagued by three (3) National Associations, two (2) State Associations and several local chapters. The National Associations consider other associations unworthy of walking the same ground. State Association leaders that has primarily forgotten the needs of their members, or has simply stood by and done nothing.

Realtors are highly regulated requiring licensure as well as comprehensive oversight by brokers. Even with these strict regulatory requirements and oversight, nothing suggests that preemptive measures could not prevent an individual from practicing improperly if they so choose. The Real Estate Committee annual report is full of examples of disciplinary measures taken against unethical sales agents, brokers, and owners. The question is whether regulation of Home Inspectors will prevent or reduce public harm. Given the lack of data showing a real risk, the greater public and professional awareness of home inspector qualifications, the availability of the internet, and the responsibility of the consumer to ask even the basic questions competency questions of the inspector they hire, licensure does not appear to be the most effective use of the states resources.

Kansas is a state where no standard or minimum building code exists for home builders to adhere to; inspectors who routinely operate in several municipalities that have adopted different or no building codes; Architects are not licensed for one or two family dwellings; only 10 counties currently have the authority to enforce established codes or ordinances; Homes that are often filled with occupant belongings hiding known defects; Sellers that are not required to disclose known defects about their own home; and agents that routinely overlook known defects and fail to disclose those defects to their clients. And through all this an inspectors spends a few hours in the home, for often \$2-300 dollars in an attempt to identify every potential defect in the home. Ours is a high liability – low compensation profession.

While it is commonly believed by all professional inspectors and associations that basic registration of home inspectors and the requirement to meet minimum initial and continuing education goals may provide the consumer an added benefit, this bill does more damage than good in providing a quality service to all citizens of Kansas. It is our hope that as legislators, you will understand the need of the business environment and the consumer need to be balanced. We ask that you vote against this poorly written bill.



KANSAS TRIAL LAWYERS ASSOCIATION

*Lawyers Representing Consumers*

To: Representative Steve Brunk, Chairman  
Members of the House Commerce and Labor Committee

From: Callie Denton Hartle  
Kansas Trial Lawyers Association

Date: February 9, 2007

Re: HB 2315 Relating to home inspections

I appear today on behalf of the Kansas Trial Lawyers Association, a statewide nonprofit organization of attorneys who serve Kansans who are seeking justice.

KTLA member Steve Dickerson, an attorney in private practice from Olathe, was not able to appear before the committee today. I am attaching his testimony and will be happy to answer any questions I can.

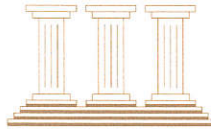
KTLA's position on HB 2315 is one of support for the concept behind the proposed regulations of home inspectors. However, KTLA opposes the bill's provisions that narrowly limit the legal accountability for home inspections to \$1,000 in the aggregate for each home inspection, and place a one year statute of limitations for filing a claim.

We respectfully request that the committee amend HB 2315 with the liability portions of HB 2075, which expressly prohibit home inspectors from limiting or disclaiming legal liability or responsibility for the integrity of a home inspection. We also recommend that the statute of limitations for filing such claims be no less than two years, and the bill be amended from one year to two years.

Thank you for the opportunity to provide you with our testimony.

H Commerce + Labor  
2-9-07  
(Attach 9)

*Terry Humphrey, Executive Director*



KANSAS TRIAL LAWYERS ASSOCIATION

*Lawyers Representing Consumers*

To: Representative Steve Brunk, Chairman  
Members of the House Commerce and Labor Committee

From: Steve Dickerson, The Katz Law Firm, Olathe  
On behalf of the Kansas Trial Lawyers Association

Date: February 9, 2007

Re: HB 2315 Relating to home inspections

I appear today on behalf of the Kansas Trial Lawyers Association, a statewide nonprofit organization of attorneys who serve Kansans who are seeking justice. I appreciate the opportunity to provide testimony on HB 2315 relating to home inspections. Our association supports, in part, and opposes, in part, HB 2315.

Before I explain our association's Jekyll and Hyde stance on this bill, let me share some context. For the overwhelming majority of Kansas families, the purchase of a family home will be the most significant and expensive financial decision they ever make. Unfortunately, there is enormous potential for a home-buying family to be disadvantaged on this momentous occasion by unscrupulous home builders, companies that rehabilitate and re-sell homes, real estate agents, home inspectors and even home sellers.

When a "buying" family is wrongfully harmed or injured by the negligence, carelessness or inattention of such a builder or inspector, and ends up with a "lemon" home, the family should rightfully have legal recourse against any unscrupulous or irresponsible party involved in the transaction. Sadly, present Kansas law works an unforgiving injustice on the disaffected family who ends up with a flawed or defective home because the wrongdoer can often contractually avoid or immunize virtually all of its legal liability or responsibility for the harm. Kansas families simply deserve better.

The law truly poses a Catch-22 for the home-buyer. So long as the real estate contract affords the buyer the right to inspect the home before closing, and almost all such contracts do, the buyer is effectively regarded as having waived any right to rely upon the seller's representations about the status or condition of the home. That is, so long as there is a right to inspect, the seller can even make misrepresentation about the condition of the home to the buyer without any fear of legal

liability against the seller.

This reality compels the buying family to avail itself of its right to inspect and hire a home inspector for that purpose. If the inspector, who may have marginal credentials, misses something in the inspection, even something which the seller knew of and lied about it, the buying family's only recourse is against the inspector.

Typically, this is little, if any, recourse because the home inspection agreement caps or limits the inspector's monetary liability. The limit could be fixed at no greater than the cost of the inspection itself which may only be a couple of hundred dollars. If the problem with the home is a serious one, the buyer is left holding the proverbial bag which might be a very heavy burden to bear.

Needless to say, home inspections have become an integral part of the home-buying process. Home-buyers are typically not sophisticated about the integrity of a home and are unable on their own to determine if a home is structurally sound and free of defects. As a result, the home-buying family necessarily turns to a home inspector to inspect a contemplated home and determine whether the home is structurally sound and nondefective. Mortgage companies, insurers and others similarly rely on the work product of home inspectors in making financial decisions.

A home-buying family's retention or utilization of a home inspector is ripe for abuse of the consumer. There are no uniform or prevailing practice or ethics standards. Also, almost anyone can hold themselves out as a home inspector, whatever their training, experience or qualifications (or lack thereof) to responsibly perform the job. For example, there are no federal laws governing home inspectors. Some states have now legislated in this area and license inspectors or impose other controls, but most states have not. To the extent this bill aims to license or certify home inspectors, it is a much-needed and appropriate first step in reasonably safeguarding Kansas families. We applaud the effort and support this aspect of the bill.

Sadly, the bill is a toothless tiger when a Kansas family has truly been disadvantaged by an irresponsible home inspector because it allows the inspector to limit the inspector's monetary legal liability to the sum of \$1,000.00 (see Section 11[c] at page 8). Many, if not most, missteps by a home inspector do not have devastating financial consequences for the home-buying family. It may only take \$1,000.00 or less to correct or remedy a problem with a plumbing drain, the positioning of a gutter downspout or a minor flaw in the home's electrical system.

On the other hand, a home inspector's errors or omissions may have far-reaching, even profound financial consequences for the home-buying family. When a home inspector fails or neglects to reasonably perform his job, and the inspector's negligence or carelessness causes substantial harm, it stands as an outrageous injustice to impose a \$1,000.00 ceiling on the inspector's monetary legal liability to the harmed family.

Every Kansas driver is financially responsible for his or her driving conduct; professionals, whether doctors, lawyers, accountants, engineers or architects, are financially responsible for their

malpractice; manufacturers are liable for marketing defective products; and business owners are liable when they fail to keep their business premises reasonably safe for their customers.

Everyone, individual, corporation and government alike, should be accountable for the harm or injury-producing consequences of their wrongful or tortious acts. Everyone should include all of those principals involved in the home-buying process including home inspectors. To the extent this bill dilutes or limits an inspector's financial responsibility for errors or omissions, the bill lacks credibility and is a bad bill.

Another pending bill, HB 2075, expressly prohibits home inspectors from limiting or disclaiming legal liability or responsibility for the integrity of a home inspection. HB 2075 is the right thing to do and should be substituted into HB 2315.

Section 11(d) of HB 2315 imposes a one-year statute of limitations on the commencement of a home-buyer's legal claim against a home inspector. This is simply too short of a deadline for the initiation of such a claim. In fact, a one-year statute of limitations is very narrowly used in this state, and certainly not appropriate in this instance. Most home inspectors perform services under a written agreement. Kansas has a five-year statute of limitations for breach of a written agreement or contract. Even if a different statute of limitations is deemed appropriate, it should not be less than the two-year statute of limitations that generally applies to the breach of a legal duty to perform services in a skilled, competent, diligent manner.

KTLA respectfully requests that if the bill advances, that the committee amend HB 2315 by deleting entirely Section 11 on page 8 lines 5-25 and adding the provisions of HB 2075 which prohibits home inspectors for limiting or disclaiming legal liability or accountability for a home inspection. We also request that bill be amended to extend the statute of limitations for filing such claims to no less than two years.

KTLA always welcomes the opportunity to appear before legislative committees or bodies when the interests of Kansas consumers and families are at stake. Thank you for the opportunity to be heard on this important matter today.



## PROFESSIONAL ENGINEERING INSPECTIONS, INC.

1161 SW Mulvane St., Topeka, Kansas 66604 785.290.0550

inspect@networksplus.net

Julie Lyle, P.E.

John Lyle, P.E.

February 7, 2007

Re: House Bill No. 2315

Dear Committee Members,

Thank you for taking the time to review this document and to hear my testimony in regards to home inspections.

We are a small business with three full time employees. Julie Lyle P.E. is President, John Lyle P.E. is Vice President, and Sandy Johnson is our office manager. John & Julie's qualifications are attached at the end of this document. We are in our sixth year of business. Our services include engineering evaluations, whole house inspections, partial inspections, radon testing, manufactured home foundation evaluation, heat exchanger examinations, radon testing, and camera sewer inspections.

We believe that there should be some form of required qualifications to be a home inspector. As a home is typically most individual's largest investment, an inspection should be performed by a competent and qualified inspector.

In this document, I will state my opinions as to how I believe that the bill can be improved and the reason for my opinions. I have spent a considerable amount of time to generate this document and have tried to critique the bill in a professional and constructive manner. I would sincerely appreciate your consideration on these items.

### Item 1

#### Line item

(Page 1 Line 33) "The term "home inspection" does not include:..." (line 40) (C) an examination and evaluation of only two or less of the components listed in section (a)(1)".

#### Concern

This allows a contractor or any individual to perform a single inspection without any responsibility or display of competency.

#### Recommendation

That all individuals must meet the requirements of a home inspector if they are going to inspect the same items that home inspectors inspect and generate a report stating the condition of the component(s).

### Item 2

#### Line item

(Page 2 Line 21) "(3) an identification of the national home inspection organizations approved by the board which the home inspector is a member of at the time of the home inspection"

#### Concern

See concern listed later in this document in regard to requiring a home inspector to belong to an approved organization

#### Recommendation

See recommendation later in this document.

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### **Item 3**

#### **Line Item**

(Page 2 Line 43) "This act shall apply to all individuals who conduct home inspections for compensation, but shall not apply to the following individuals who are specifically exempted from registration under this act: (a) A tradesman or contractor performing a single component or system evaluation or a combination of any two systems or components listed in section 1(a)(1)(A)-(I) while acting within the scope of that occupation"

#### **Concern**

Contractors have and do perform inspection for buyers and sellers involved in real estate transactions. The contractor provides a report and is compensated for their inspection and report. Note that home inspectors cannot provide any repair services for 12 months in accordance with this bill, however, this exemption allows a contractor, who, if finds a problem, can also receive a job, for which they will also be compensated. This in our opinion is a serious conflict of interest and does not promote fairness. This does not protect consumers and often times, the contractor has the consumer "over a barrel" since a real estate contract is generally completed within 30 to 45 days.

#### **Recommendation**

That all individuals and contractors must meet the requirements of a home inspector if they are going to inspect the same items that home inspectors inspect and generate a report stating the condition of the component(s).

### **Item 4**

#### **Line Item**

(Page 3 Line 10) "(c) an individual licensed by the state as an architect while acting within the scope of that license;"  
(d) an individual licensed by the state as a professional engineer while acting within the scope of that license *as long as the individual is not providing services which would constitute a home inspection defined by this act*"

#### **Concern**

Architects are being favored by this bill. Licensed Engineers are not permitted to perform a home inspection with exemption from this bill, but a Licensed Architect is.

Both Licensed Architects and Licensed Engineers are registered under the Board of Technical Professions. Both Architects and Engineers are involved in building design. Architects typically design the shell of the building and specify such items as drywall, floor plan, windows, doors, roof coverings, trim, tile, other finished surfaces etc. Engineers typically design the electrical, heating, cooling, plumbing, lighting, special systems, structure, foundation, etc. Engineers design many of the expensive and most of the safety related items in a home or building.

Julie and I both have a background in commercial building inspection and design. We both worked with architects to complete our part of the building design, while the architect completed their part of the building design.

#### **Recommendation**

Licensed Engineers and Licensed Architects should be treated the same. It would be our recommendation that Licensed Engineers and Licensed Architects are exempt from this bill. The reason for this recommendation is that Licensed Engineers and Licensed Architects are already registered with the state under the Kansas State Board of Technical Professions. To become a Licensed Engineer or Architect, you must have a degree from an accredited university, meet experience requirements (4 years of practice), have letters of recommendation from other licensed Engineers / Architects stating that you have been practicing Engineering / Architecture and are an acceptable candidate for the exam, pass two difficult tests administered by the Kansas State Board of Technical Professions, maintain continuing education in accordance with the requirements of the board, and maintain the code of ethics by practicing in an area only in which you are competent. Licensed Engineers and Licensed Architects can render legal opinions in regards to building construction. Note that we have been called upon by the city to resolve issues that were outside of the scope of what their inspectors were responsible for (generally a problem that the inspector flagged that required a design solution). We have both designed state buildings. Many other states have exempted Licensed Engineers and Licensed Architects from home inspector licensure laws.

## **Item 5**

### **Line Item**

(Page 3 - Line 16) "(e) an individual licensed...(k)... home inspection under this act,

### **Concern**

That other individuals can perform inspections performed by a home inspector without meeting the requirements of a home inspector.

### **Recommendation**

In short, if performing an inspection for a fee and generating a report, then that individual should be held to the same standards as that of a home inspector.

## **Item 6**

### **Line Item**

(Page 5 - Line 26) "(b) approve and adopt the standards of practice of nationally-recognized home inspection associations which meet the requirements of this act;

### **Concern**

See concern listed later in this document in regard to requiring a home inspector to belong to an approved organization.

### **Recommendation**

See recommendation later in this document.

## **Item 7**

### **Line Item**

(Page 7 - Line 6) "(c) submit proof of general liability insurance coverage in an amount of \$250,000 or more"

### **Concern**

What is this insurance for? When we requested general liability insurance five years ago, as I recall, our insurance agent said that they could not provide that unless you bought errors and omissions insurance first for approximately \$5,000.00 per year. Note that I may need to do more research on this item.

The concern with errors and omissions insurance as described to us by an attorney is that the attorneys know that there is a deductible, and as an attorney, you find out what the deductible is through negotiations, then the insurance company sends the home inspector a letter stating that you owe the "plaintiff" the amount of your deductible. Note that the insurance companies advertise that they will do all of the negotiating for you so that you do not have to hassle with this process when what they are actually doing is protecting themselves and sacrificing your deductible to any client that makes a claim whether valid or invalid. A seasoned home inspector that we interviewed dropped his Errors and Omissions insurance because it was costing him in excess of \$10,000.00 per year in unsubstantiated claims. A small business cannot afford such expenses

### **Recommendation**

Provide a financially responsible alternative.

## **Item 8**

### **Line Item**

(Page 7 - Line 8) "submit proof of a fidelity bond to cover dishonesty in an amount not less than \$10,000 providing that the fidelity bond may not be terminated without 30 days prior written notice to the board"

### **Concern**

This seems to imply that home inspectors are dishonest. There are already provisions in this bill that clearly deal with dishonesty.

### **Recommendation**

Strike this requirement from the bill.



## **Item 9**

### **Line Item**

(Page 7 - Line 13) "(2) a surety bond in an amount not less than \$10,000...(3) an irrevocable letter of credit not less than \$10,000...(4) the maintenance of a minimum balance of \$10,000..."

### **Concern**

Note - I am not knowledgeable about these type of accounts but this sounds like an added financial burden. I do not believe that errors and omissions insurance is an option as described above.

### **Recommendation**

That the home inspector (small business) be able to place the \$10,000 in an interest bearing account, thus to relieve any serious financial strain, and at a minimum, the account will be earning interest.

## **Item 10**

### **Line Item**

(Page 7 - Line 31) "(e) submit proof of membership in good standing in either: (1) The American Society of Home Inspectors (ASHI); (2) the National Association of Home Inspectors (NAHI); or (3) the National Association of Certified Home Inspectors (NACHI);"

### **Concern**

This list is too prescriptive. It has been clearly documented that these groups push home inspector legislation to improve their business. Thus this is the case of big business feeding off of the small business. This requirement would be a dream come true for most businesses, that is, to make it a state law that individuals practicing in a profession must subscribe to their service. This violates the free market and possibly US laws regarding monopolies. Note that the National Academy of Building Inspection Engineers (NABIE) that requires an Engineering License to inspect is not included in this list. We currently have membership with this organization.

### **Recommendation**

Either strike this requirement or include the phrase "or any other reputable home inspection organization"

## **Item 11**

### **Line Item**

(Page 7 - Line 35) "and (f) have successfully completed and passed a written or electronic exam as approved by the board and proctored by a testing organization approved by the board; (g) annually obtained a minimum of 16 hours of continuing education by completing courses approved by the board; and (h) have satisfied one of the following requirements..."

### **Concern**

There is not a definition of testing frequency, grace period for practicing home inspectors etc. In short, it is possible that a home inspector that is providing for their family could lose their entire business and livelihood because they did not pass an exam.

In regards to Licensed Engineers and Licensed Architects, they have already passed state administered exams, much more in depth than a typical home inspection exam and already participate in continuing education.

### **Recommendation**

Establish a method to prevent a small business owner from losing their business because a test was not passed in the form of "if the test is not passed by a practicing home inspector that has completed 300 fee paid home inspections...then they shall remain as a home inspector as long as they continue to take the test at every available opportunity and ... engage in educational activities...other.

In regards to Licensed Engineers and Licensed Architects, it is recommended that any testing requirements or continuing education requirements be waived since they were tested under the Kansas State Board of Technical Professions and since they must complete continuing education requirements to maintain their license.

**General Comments:**

Passage of this bill will increase the cost of a home inspection. Licensure, etc, all add cost, and a small business cannot absorb this cost without passing it on to the consumer. At present, some individuals cannot afford a home inspection, and they are generally the ones who need a home inspection the most. We ask that costs to the home inspector be kept at a minimum so that the consumer can afford the service. We have found many serious safety issues in homes, including blocked flues, which we believe, have saved lives. Good inspectors are a benefit to the community and perform an excellent service.

Please feel free to contact me if you have any questions.

Sincerely,

John Lyle, P.E.  
Vice President  
Professional Engineering Inspections, Inc.

Attachments:  
Code of Ethics for Engineers  
NABIE Position Paper

## Qualifications for John Lyle, P.E.

- \* Bachelor of Science in Mechanical Engineering, Kansas State University, 1989
  - \* Licensed Professional Engineer with the State of Kansas, License #13952
  - \* Vice President of Professional Engineering Inspections, Inc., a residential and light commercial inspection and structural evaluation company
  - \* We are often called in to resolve differing opinions of contractors.
  - \* President's award winner 1996 for Exemplary Performance, Wolf Creek Nuclear Power Plant (one of the top 6 performing employees in a company with well over 1000 employees)
  - \* 6 years experience at Wolf Creek Nuclear Power Plant. Due to my exemplary performance, I was assigned as system engineer over one of the most risk significant systems in the power plant, Auxiliary Feedwater
  - \* 3 years of engineering experience involving machinery design and commercial plant upgrades
  - \* 3 years of experience with the State of Kansas designing and inspecting new and renovated commercial buildings
  - \* Construction experience (16 years part & full time) including:

Foundation repair	Roofing
Structural repair	Finishes
Plumbing	Drywall
Electrical	Concrete
Heating & Air conditioning	Carpentry
Guttering	Insulating
Exterior finishes	
  - \* Specializes in foundation analysis. Often requested to resolve differing opinions between various parties and renders legal opinions.
  - \* Regular continuing education maintained in accordance with state licensing requirements in regards to subjects including heating, cooling, and ventilating equipment, trusses, foundations, electrical, roofing, mold, concrete, etc.
- Publications: - Article in the V8 Times regarding Synthetic Oil.  
Document for the Kansas Department of Transportation regarding GFCI Breakers

## Qualifications for Julie Lyle, P.E.

- \* Bachelor of Science in Architectural Engineering, Kansas State University, 1988
- \* Licensed Professional Engineer with the State of Kansas, License #12885
- \* President of Professional Engineering Inspections, Inc., a residential and light commercial inspection and structural evaluation company
- \* Professional Member - National Academy of Building Inspection Engineers (NABIE)
- \* Member - National Society of Professional Engineers (NSPE)
- \* Previous Member - American Society of Refrigeration, Heating and Air Conditioning Engineers (ASHRAE)
- \* Previous Member - Illuminating Engineering Society (IES)
- \* We are often called in to resolve differing opinions of contractors.
- \* 13 years experience at Brack and Associates designing and inspecting commercial buildings.
- \* Construction experience (16 years) including:

Foundation repair	Roofing
Structural repair	Finishes
Plumbing	Drywall
Electrical	Concrete
Heating & Air conditioning	Carpentry
Guttering	Insulating
Exterior finishes	
- \* Regular continuing education maintained in accordance with state licensing requirements in regards to subjects including heating, cooling, and ventilating equipment, trusses, foundations, electrical, roofing, mold, radon, etc.

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## **Code of Ethics for Engineers**

From the National Society of Professional Engineers (NSPE)

**Engineering is an important and learned profession. As members of this profession, engineers are expected to exhibit the highest standards of honesty and integrity. Engineering has a direct and vital impact on the of life for all people. Accordingly, the services provided by engineers require honesty, impartiality, fairness and equity, and must be dedicated to the protection of the public health, safety, and welfare. Engineers must perform under a standard of professional behavior that requires adherence to the highest principles of ethical conduct....**

**Engineers, in the fulfillment of their professional duties, shall:**

- 1. Hold paramount the safety, health and welfare of the public.**
- 2. Perform services only in areas of their competence.**
- 3. Issue public statements only in an objective and truthful manner.**
- 4. Act for each employer or client as faithful agents or trustees.**
- 5. Avoid deceptive acts.**
- 6. Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession....**

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**For the complete code of ethics for professional engineers, please refer to the website for the National Society of Professional Engineers.**

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## Licensing of Professional Engineers and Architects as Home Inspectors

### A Position Paper of the National Academy of Building Inspection Engineers

This paper sets forth the official position of the National Academy of Building Inspection Engineers, a membership organization of licensed professional engineers (P.E.'s) and architects (R.A.'s or A.I.A.'s). The Academy represents a national working group dedicated to the highest standards of performance in the evaluation of conditions in buildings, both residential and commercial. In addition this paper reiterates the long held position of the state governing authorities and the courts that only licensed engineers and architects are qualified to evaluate and judge the adequacy of systems and structures to perform their intended functions.

The National Academy of Building Inspection Engineers (NABIE) is a chartered affinity group of the National Society of Professional Engineers. NABIE was formed in 1989 to advance the professional standing of the building inspection engineering profession.

NABIE's current membership includes some 150 licensed professional engineers and architects who are engaged in the practice of building inspection engineering. The scope of our members' practices range from inspecting single family residential structures to large commercial and industrial buildings.

It is NABIE's official position that those aspects of building inspection which require the application of engineering principles constitute the practice of engineering and should only be performed by licensed professional engineers. Such aspects include but are not limited to the evaluation of commercial, industrial, and institutional building and residential dwellings, regarding the structural, electrical, or mechanical systems.

Furthermore, it is NABIE's official position to oppose the imposition of additional licensing requirements on licensed professional engineers and architects engaged in the practice of building inspection engineering, by requiring licensed engineers and architects to acquire another license as a home inspector.

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Licensing of engineers and architects falls within the jurisdiction of the individual states and is always, even when privatized, governed by a state licensing board. Typical licensing requirements include a bachelors level degree from an accredited engineering university, an initial eight hour written examination on the fundamentals of engineering followed by an internship of four years practice under the direction of a licensed engineer, and a final written examination of eight hours on the principles and practices of engineering. In addition, many states require a level of continuing education as a precondition for renewal of the one or two year license. Fundamental to the ethical requirements of the licensed engineer is the stipulation that no engineer will practice outside the scope of his/her area of competence

Licensed engineers and architects are typically the only professionals authorized to sign and seal plans and other documents certifying the proper functioning of a building's structure and systems. Such components of a building typically include, but are not limited to its structure, i.e.: foundation, framing, and roofing, electrical, HVAC, plumbing, fire safety, and other systems. For the engineer or architect to be authorized to sign and seal plans for such engineering components and yet be required to obtain a lower level license in order to perform a home inspection, (which is a visual assessment of those very systems) has no basis in logic. This requirement would be analogous to requiring a licensed physician to obtain an additional license, as a mid-wife, in order to deliver a baby.

Engineers have been conducting inspections and certifying the condition of buildings for decades. It is only with the recent rise in popularity of the home inspection industry and the concerns about the qualifications of the non-engineer home inspector that has led to the need to address the licensing of these individuals.

The public has long regarded the professional engineer and architect as having the highest technical credentials and level of trust on building issues. Attorneys often seek the advice and counsel of engineers as technical experts when dealing with highly technical issues. It is problematic to require a licensed engineer or architect to obtain a second ,

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lesser license, to perform a service that engineers and architects have been providing for many years under their existing licenses. Additionally, only a licensed engineer or architect can legally conduct a building inspection for a multi-story commercial building containing systems many times more complex than a single family residence. Requiring this same professional to have a separate license to inspect a single family residence is clearly not warranted.

It is also the official position of NABIE to vigorously oppose the continuing intrusion into the practice of engineering by other, non-engineer, non-licensed individuals. In the course of conducting home inspections, many home inspectors routinely render professional opinions as to the suitability of structures and systems to perform their intended function. Such opinions and conclusions can only be technically valid when they result from the application of professional judgment and engineering principles. It is not in the public's interest or allow non-engineer, non-licensed individuals to render such opinions. It also erodes the public's understanding and confidence in the overall role of the licensed engineer. Legislation or administrative regulations should clearly stipulate that non-engineer home inspectors do not practice or infringe on the practice of the profession of engineering.

NABIE encourages legislative or administrative regulations that require real estate professionals to provide a home inspector qualification disclosure notice to prospective purchasers of residential real property which shall explain the scope of practice and authority of persons licensed as professional engineers versus persons not licensed as professional engineers offering to provide home inspection.

Endorsed by the National Society of Professional Engineers, April 27, 2002.

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Members who wish to comment on the above statement are encouraged to submit their comments to the Members Only Forum. Need to know the password? Contact headquarters.

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