

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 A.M. on March 11, 2008 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Jennifer Thierer, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Jason Long, Revisor of Statutes
Jackie Lunn, Committee Assistant

Conferees appearing before the committee:

Others attending:

See attached list.

Representative John Grange
Luke Bell, Kansas Association of Realtors
Ron Hein, Kansas Association of Real Estate Inspectors
Jeff Barnes, Inspector
Callie Hartle, Kansas Association for Justice
Kerry Parham, President, Midwest Chapter ASHI
Julie Lyle, Professional Engineering Inspection
Randy Sipe, Kansas Home Inspector
Michael Greenwalt, President, KS Assoc. of Residential & Comm. Inspectors
Dan Bowers, Holmes Inspection Co.
Jay Rusk, Home Inspector, Lawrence
Mike Prichett, National Association of Home Inspectors
David Morconi, Secretary, KARCI
Steve Bauer, Real Estate Inspector
John Kurtz, National Association Home Inspectors, Heartland Chapter

To read testimony submitted by conferees go to
<http://skyways.lib.ks.us/government/KansasSenateCommerceCommittee>.

HB 2315--Home inspectors competency and financial responsibility

Chairperson Brownlee welcomed Walt Cochran from Gardner High School and his honors class to observe the meeting today.

Chairperson Brownlee introduced Jason Long, Revisors Office, to explain **HB 2315**. Mr. Long stated the bill will require that persons performing home inspections be registered with the Kansas Home Inspectors Registration Board which will be a new entity created by the bill.

Upon the conclusion of Mr. Long's explanation of the bill, Chairperson Brownlee asked if the Committee had questions; being none, she opened the hearing on **HB 2315** and introduced Representative John Grange to give his testimony as a proponent of the bill. Representative Grange presented written testimony (Attachment 1) which can be found in its entirety on the link listed above.

Upon the conclusion of Representative Grange's testimony, Chairperson Brownlee stated she would hold questions until all the proponents testified and introduced Luke Bell, Kansas Association of Realtors, to give his testimony as a proponent of **HB 2315**. Mr. Bell presented written testimony (Attachment 2) which can be found in its entirety on the link listed above.

Chairperson Brownlee introduced Ron Hein, Kansas Association of Real Estate Inspectors, to give his testimony as a proponent of the bill. Mr. Hein presented written testimony (Attachment 3) which can be

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:30 A.M. on March 11, 2008 in Room 123-S of the Capitol.

found in its entirety on the link listed on page 1 of these minutes.

Chairperson Brownlee introduced Jeff Barnes, Home Inspector, to give his testimony as a proponent of **HB 2315**. Mr. Barnes presented written testimony ([Attachment 4](#)) which can be found in its entirety on the link shown on page 1 of these minutes.

Chairperson Brownlee introduced Callie Hartle, Kansas Association for Justice, to give her testimony as a proponent of the bill. Ms. Hartle presented written testimony ([Attachment 5](#)) which can be found in its entirety on the link shown on page 1 of these minutes.

Chairperson Brownlee introduced Kerry Parham, President, Midwest Chapter of ASHI, to give his testimony as a proponent of **HB 2315**. Mr. Parham presented written testimony ([Attachment 6](#)) which can be found in its entirety on the link shown on page 1 of these minutes.

Chairperson Brownlee introduced Julie Lyle, Professional Engineering Inspectors, to give her testimony as a proponent of the bill. Ms. Lyle presented written testimony ([Attachment 7](#)) which can be found in its entirety on the link shown on page 1 of these minutes.

Chairperson Brownlee introduced Randy Sipe, Home Inspector, to give his testimony as a proponent of **HB 2315**. Mr. Sipe presented written testimony ([Attachment 8](#)) which can be found in its entirety on the link shown on page 1 of these minutes.

Upon the completion of the testimony of all the proponents, Chairperson opened the floor for questions from the Committee. There was discussion centered around the responsibilities of the inspectors and what they are liable for. It was noted during the discussion that professional engineers had been stricken from the bill in the house. The discussion continued on where the inspectors could be put instead of creating a new board. It was noted that the Board of Technical Professions had been contacted regarding adding the inspectors and they stated they did not want the inspectors under their board.

Upon the conclusion of questions and discussion, Chairperson Brownlee introduced Michael Greenwalt, President, Kansas Association of Residential and Commercial Inspectors, to give his testimony as an opponent of **HB 2315**. Mr. Greenwalt presented written testimony ([Attachment 9](#)) which can be found in its entirety on the link shown on page 1 of these minutes.

Chairperson Brownlee introduced Dan Bowers, Holmes Inspection Company, to give his testimony as an opponent of the bill. Mr. Bowers presented written testimony ([Attachment 10](#)) which can be found in its entirety on the link shown on page 1 of these minutes.

Chairperson Brownlee introduced Jay Rusk, a home inspector in Lawrence, Kansas, to give his testimony as an opponent of **HB 2315**. Mr. Rusk presented written testimony ([Attachment 11](#)) which can be found in its entirety on the link shown on page 1 of these minutes.

Chairperson Brownlee introduced Mike Prichett, National Association of Home Inspectors, to give his testimony as an opponent of the bill. Mr. Prichett presented written testimony ([Attachment 12](#)) which can be found in its entirety on the link shown on page 1 of these minutes.

Chairperson Brownlee introduced David Moriconi, Secretary, KARCI, to give his testimony as an opponent of **HB 2315**. Mr. Moriconi presented written testimony ([Attachment 13](#)) which can be found in its entirety on the link shown on page 1 of these minutes.

Chairperson Brownlee introduced Steve Bauer, a real estate inspector, to give his testimony as an opponent of the bill. Mr. Bauer presented written testimony ([Attachment 14](#)) which can be found in its entirety on the link shown on page 1 of these minutes.

Chairperson Brownlee introduced John Kurtz, National Association of Home Inspectors, Heartland Chapter, to give his testimony as an opponent of **HB 2315**. Mr. Kurtz presented written testimony ([Attachment 15](#))

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:30 A.M. on March 11, 2008 in Room 123-S of the Capitol.

which can be found in its entirety on the link shown on page 1 of these minutes.

Upon the conclusion of the testimony of all the opponents, Chairperson Brownlee called the Committee's attention to the "written only" opponent testimony of the following:

Ronald Nabb, AHSI Certified Home Inspector ([Attachment 16](#))

Nancy Seats, President, Homeowners Against Deficient Dwellings ([Attachment 17](#))

Mark Adams, Missouri Association of Real Estate Inspectors ([Attachment 18](#))

Jim Bushart, National Association of Home Inspectors ([Attachment 19](#))

Due to the time restraint, Chairperson Brownlee announced she would hold the hearing open to hear the testimony of the neutral conferees on another day.

A brief discussion followed when Chairperson Brownlee asked what the need was for the bill with both the proponents and opponents joining in. The liability of the Realtors was also discussed.

Chairperson Brownlee adjourned the meeting at 9:30 a.m. with the next meeting scheduled for March 12, 2008 at 8:30 a.m. in room 123 S.

JOHN C. GRANGE
 REPRESENTATIVE, 75TH DISTRICT
 BUTLER COUNTY



TOPEKA

HOUSE OF

REPRESENTATIVES

AGRICULTURE AND NATURAL RESOURCES
 COMMERCE AND LABOR
 AGRICULTURE AND NATURAL RESOURCE
 BUDGET

Testimony on Behalf of HB2315
 Senate Commerce Committee
 March 11th 2008

Chairperson Brownlee and members of the committee, thank you for the opportunity to appear before you to express my support of HB2315 which relates to a industry that is emerging as a much needed service by home purchasers. I carried this legislation to the House Floor where it passed 80-38.

This legislation was introduced to our Committee on Commerce and Labor last year. During the discussion and testimony by opponents and proponents the committee recommended a better approach for this issue to take would be a collaborative effort by the interested parties.

Accordingly; the realtor industry, manufactured home builders, contractors, individuals that conduct home inspectors, and representatives of home inspection certification testing organizations were invited to work out a compromise. I offered to facilitate meetings that would take place during the interim period from the 2007-08 session. Through meetings, emails, phone calls and other communications the current HB2315 was produced.

We worked this legislation through our committee this year where testimony was heard from opponents and proponents. Committee discussion led to balloon amendments offered by the committee members, Insurance Industry, Architects, and revisor staff.

The discussion was not without dissent and those issues were presented to the committee as well. The committee passed out favorable and a majority of the House concurred.

This legislation was brought to us by an industry asking for regulation and seeking provisions for oversight. Under the provisions of this bill providing home inspections remains at the discretion of the buyer or seller and is not required for the completion of a sales transaction.

This legislation does provide some assurance that those who offer the home inspection service have been certified by a nationally recognized organization, have liability insurance, and have obtained knowledge or expertise through approved training or field experience, and has completed continuing education requirements.

Through negotiations and compromise HB 2315 is presented for your review and I would ask your favorable consideration. I will stand for your questions.



To: Senate Commerce Committee
From: Luke Bell, KAR Director of Governmental Relations
Date: March 11, 2008
Subject: **HB 2315** – Kansas Home Inspectors Professional Competence and Financial Responsibility Act

Chairperson Brownlee and members of the Senate Commerce 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 has faithfully represented the interests of the 10,000 real estate professionals and over 700,000 homeowners 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. At this time, 32 states have passed legislation that regulates the home inspection industry (it will soon be 33 as legislation in Washington awaits the Governor's signature). This number increases each year as more states see the need for more regulation of this 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 receive home inspection services from a qualified professional who will adequately identify defects and problems. The intent of this legislation is not to enact overly burdensome regulations on the home inspection industry or unfairly restrict actions in the private marketplace. Instead, it is to create a minimum level of regulation that ensures consumers receive at least a basic level of service in the home inspection setting.

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. As a result of nearly three years of continuous discussion with members of the home inspection industry, this legislation represents a carefully-constructed compromise to protect consumers while not unduly harming the home inspection industry.

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 that is for sale. As a result, consumers rely on the expertise and qualifications of the home inspector for protection in the real estate transaction.

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Senate Commerce Committee

March 11, 2008

Attachment 2-1

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 in the state of Kansas, all he or she needs to do currently is to place an advertisement in the yellow pages offering his or her services as a home inspector. There are absolutely no mechanisms in place by which consumers can ascertain whether or not a home inspector is qualified to conduct home inspections or has received any training or education in the profession.

HB 2315 would establish the Kansas Home Inspectors Registration Board to oversee the regulation of the home inspection industry. **HB 2315** would create an independent state board made up of a majority of home inspectors who would regulate the home inspection industry 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.

This state already regulates many professions that provides services to members of the public. These regulated professions include numerous professions that range from accountants, real estate licensees, attorneys and medical professionals to cosmetologists and athletic agents. Surely if the Legislature has decided to regulate a profession as trivial as hair stylists and nail salons, it is also important to regulate a profession that serves consumers who are making a major financial commitment in purchasing a home.

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. In fact, it is quite common for home inspectors to limit their liability in the home inspection contract to the price of the 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. Based on my research, I have identified literally no other professions in the state of Kansas that 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 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 that would disclaim liability for any errors and omissions that may arise during a home inspection or limit the amount of damages for liability for any errors and omissions to less than \$10,000 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 32 states that currently regulate home inspectors, the cap on liability limitations is much higher than the proposed \$10,000 cap in **HB 2315** (in many states, liability is capped at amounts ranging from \$250,000 to \$500,000 per transaction). There is absolutely no evidence to support the fact that any increased regulation has driven home inspectors out of the business or made home inspections less affordable for consumers.

Furthermore, ensuring that a home inspector is liable for at maximum \$10,000 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 that 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 that protects consumers to the maximum possible extent. I have also attached several frequently asked questions on this issue in Attachment 1.

Frequently Asked Questions on HB 2315 – Kansas Home Inspectors Professional Competence and Financial Responsibility Act

Q. Would this legislation require any new funding from the State General Fund?

A. No. The Home Inspectors Registration Board would be entirely fee-funded through registration and renewal fees from home inspectors registered under this act. Modeled after the Hearing Instruments Board of Examiners and the Abstracters Board of Examiners (budget briefings in Attachments 2 and 3), it is estimated that it would cost no more than approximately \$20,000 to \$25,000 per year to operate the board.

Q. How many home inspectors will be registered under this act and how much annual revenue will this generate for the board?

A. It is estimated that approximately 200 to 250 home inspectors would register under this act. If these home inspectors were to register under this act, it would generate approximately \$40,000 to \$50,000 in annual operating revenue for the board.

Q. Are home inspections required as part of the real estate transaction process?

A. No. Even though home inspections are not required as part of the real estate transaction process, they are highly encouraged to help buyers identify defects in the purchased property. If buyers do not conduct an independent home inspection of the property, they are assumed to be purchasing the property “as is.”

Q. Will this legislation significantly increase the cost of home inspections or decrease the number of home inspectors operating in the state?

A. No. The evidence from other states where similar legislation has been enacted does not show that the price of home inspections will significantly increase or that the number of home inspectors will significantly decrease. In fact, numerous studies have shown that the number of home inspectors has actually increased in states where similar legislation has been enacted.

Q. What is the difference between general liability insurance coverage and errors and omissions insurance coverage?

A. **HB 2315** requires home inspectors to maintain general liability insurance coverage of at least \$250,000 or more. General liability insurance covers the home inspector in situations where their actual negligence damages the physical residence or the occupants during an inspection. An example of this conduct would be starting a fire in the residence through negligence or knocking over a ladder negligently and striking an occupant of the residence or client.

HB 2315 requires the home inspector to maintain financial assurance mechanisms to cover at least \$10,000 in liability for errors and omissions occurring during the home inspection process. Errors and omissions are a negligent or intentional failure to identify material defects in the residence that require remediation or repair by the client. This legislation caps liability for errors and omissions to no more than \$10,000 in the aggregate for each home inspection.

Q. Would this legislation allow the members of one national association to use the powers of the board to unfairly discriminate against members of another national association?

A. No. The independent home inspection board established under this act will be responsible for approving the standards of practice, exams and continuing education hours of qualified national associations approved by the board. At this time, there are three major national home inspection associations that represent the overwhelming majority of home inspectors currently operating in this state. The board will approve the standards of practice, exams and continuing education hours of all three major national associations to ensure that the members of one national association do not unfairly discriminate against members of another national association.

Q. Would it be difficult for individuals who want to enter the home inspection business to become registered as a home inspector under this act?

A. No. When you compare the requirements to become registered as a home inspector under this act to the requirements to become a member of other state-regulated professions (attorneys, medical doctors, real estate licensees, real estate appraisers, certified public accountants, hair stylists, etc.), it will not be overly burdensome to become registered under this act.

In order to become registered under this act, an individual must meet the following requirements:

- (1) Be at least 18 years of age;
- (2) Complete high school or its equivalent;
- (3) Maintain liability insurance coverage;
- (4) Submit proof of financial responsibility for errors and omissions;
- (5) Maintain membership in a nationally-recognized association of home inspectors approved by the board;
- (6) Successfully complete a written or electronic home inspection exam approved by the board;
- (7) Annually obtain 16 hours of continuing education approved by the board; and
- (8) Complete 80 hours of classroom training or have been engaged in the practice of home inspectors for not fewer than three years and have completed not less than 300 home inspections.

Q. Would it be difficult to obtain the 80 hours of classroom training required under subsection (8) in the preceding question?

A. No. Numerous home inspection training schools around the state currently offer courses that range from 64 to 90 hours to certify new home inspectors. For the most part, these courses are relatively inexpensive and can be finished up in one full week of instruction. If an individual has a full-time job that does not allow them to sit in the classroom for a full week of instruction, then typically other options allow individuals to attend courses in the evenings or on weekends.

Becoming a member of virtually every other profession in this state requires individuals to obtain some form of pre-registration education. Requiring individuals to obtain classroom training on the fundamentals of home inspections will ensure that each registered home inspector is able to provide a basic level of competent services to consumers.

Hearing Instruments Board of Examiners _____

Mission. The mission of the Hearing Instruments Board of Examiners is to establish and enforce standards that ensure the people of Kansas receive competent and ethical hearing instrument care.

Operations. The Hearing Instruments Board of Examiners regulates the fitting and dispensing of hearing instruments to ensure proper practices. The Board is active in three areas. The Board licenses qualified applicants by examination and re-licenses practicing dispensers annually. As a condition for licensure, licensees are required to document the professional calibration of their audiometric equipment. The Board also maintains the professional standards of licensees by requiring and approving continuing education for annual renewal. Finally, the Board investigates and resolves complaints brought before the agency.

The Board is composed of five members, three of whom are licensed dispensers of hearing instruments with at least five years experience and two of whom are representatives of the general public. Members of the Board are appointed by the Governor to three-year staggered terms. The Board designates an executive officer to administer the activities of the agency.

The Hearing Instruments Board of Examiners is a fee-funded agency. The majority of the agency's fees are derived from the re-licensing of practicing dispensers,

with the remainder originating from the issuance of new and temporary licenses.

Goals and Objectives. The primary goal of the Board is to ensure that the people of Kansas receive competent and ethical hearing instrument care. This goal is accomplished through the following objectives:

Determine efficiently and thoroughly the competence of new hearing instrument dispensing applicants.

Review license renewals to ensure that all office locations are reported, calibration sheets are current, and continuing education credits are received from an approved program.

Provide unbiased and timely review of all complaints submitted to the Board.

Renew all licenses in a timely and efficient manner.

Statutory History. The Hearing Aid Board of Examiners was established by the 1968 Legislature. The sections of the law which govern the agency can be found in KSA 74-5801 et seq. With the enactment of HB 2285, the 2006 Legislature changed the name of the agency to the Hearing Instruments Board of Examiners.

Hearing Instruments Board of Examiners

	FY 2007 Actual	FY 2008 Gov. Estimate	FY 2009 Base Budget	FY 2009 Enhanc. Pkg.	FY 2009 Gov. Rec.
Expenditures by Object					
Salaries and Wages	16,118	19,683	18,799	--	18,840
Contractual Services	8,170	9,123	9,259	--	9,259
Commodities	1,603	770	785	--	785
Capital Outlay	--	--	--	--	--
Debt Service	--	--	--	--	--
Subtotal: State Operations	\$25,891	\$29,576	\$28,843	\$ --	\$28,884
Aid to Local Governments	--	--	--	--	--
Other Assistance	--	--	--	--	--
Subtotal: Operating Expenditures	\$25,891	\$29,576	\$28,843	\$ --	\$28,884
Capital Improvements	--	--	--	--	--
Total Reportable Expenditures	\$25,891	\$29,576	\$28,843	\$ --	\$28,884
Non-expense Items	--	--	--	--	--
Total Expenditures by Object	\$25,891	\$29,576	\$28,843	\$ --	\$28,884
Expenditures by Fund					
State General Fund	--	--	--	--	--
Water Plan Fund	--	--	--	--	--
EDIF	--	--	--	--	--
Children's Initiatives Fund	--	--	--	--	--
Building Funds	--	--	--	--	--
Other Funds	25,891	29,576	28,843	--	28,884
Total Expenditures by Fund	\$25,891	\$29,576	\$28,843	\$ --	\$28,884
FTE Positions					
FTE Positions	0.40	0.40	0.40	--	0.40
Non-FTE Unclassified Permanent	--	--	--	--	--
Total Positions	0.40	0.40	0.40	--	0.40

Performance Measures	FY 2007 Actual	FY 2008 Estimate	FY 2009 Estimate
Number of licenses issued	235	235	235

Abstracters Board of Examiners

Mission. The mission of the Abstracters Board of Examiners is to regulate in a fair and equitable manner the individuals and firms that compile and sell abstracts of Kansas real estate. In addition, the Board strives to protect the citizens of the state against fraudulent and improper land title transfers.

Operations. The Abstracters Board of Examiners is a three-member board appointed by the Governor for overlapping three-year terms. An executive secretary is appointed by the Board to administer its activities. The Board licenses all individuals or firms selling abstracts of title to Kansas real estate. In order to obtain a license, a person, firm, or corporation must pass an examination conducted by the Board and file a bond and a policy of insurance with the Board. In the case of a firm or corporation, the examination needs to be taken by an active manager of the firm.

Professional abstracters search county and court records for transactions that affect land title, such as mortgages, easements, or judgments against any party

having an interest in the property. A record of the transactions is condensed into a form acceptable to the buyer's attorney, who writes an opinion on the title. A licensee must be bonded for a minimum of \$25,000 to protect against the loss or destruction of public records and must have at least \$25,000 in errors and omissions insurance.

Goals and Objectives. The goal of the Abstracters Board of Examiners is to ensure that all license holders meet the minimum standards prescribed by law. An objective associated with this goal is to:

Continue to test new applicants for licensure and to provide training to existing licensees.

Statutory History. The Abstracters Board of Examiners is authorized by KSA 74-3901 et seq. to administer the Kansas Abstracters Act (KSA 58-2801 et seq.), which provides for the regulation of both individuals and firms who compile and sell abstracts of Kansas real estate.

Abstracters Board of Examiners

	FY 2007 Actual	FY 2008 Gov. Estimate	FY 2009 Base Budget	FY 2009 Enhanc. Pkg.	FY 2009 Gov. Rec.
Expenditures by Object					
Salaries and Wages	16,928	16,757	16,777	--	16,777
Contractual Services	2,725	4,587	4,637	--	4,637
Commodities	528	453	400	--	400
Capital Outlay	--	--	--	--	--
Debt Service	--	--	--	--	--
Subtotal: State Operations	\$20,181	\$21,797	\$21,814	\$ --	\$21,814
Aid to Local Governments	--	--	--	--	--
Other Assistance	--	--	--	--	--
Subtotal: Operating Expenditures	\$20,181	\$21,797	\$21,814	\$ --	\$21,814
Capital Improvements	--	--	--	--	--
Total Reportable Expenditures	\$20,181	\$21,797	\$21,814	\$ --	\$21,814
Non-expense Items	--	--	--	--	--
Total Expenditures by Object	\$20,181	\$21,797	\$21,814	\$ --	\$21,814
Expenditures by Fund					
State General Fund	--	--	--	--	--
Water Plan Fund	--	--	--	--	--
EDIF	--	--	--	--	--
Children's Initiatives Fund	--	--	--	--	--
Building Funds	--	--	--	--	--
Other Funds	20,181	21,797	21,814	--	21,814
Total Expenditures by Fund	\$20,181	\$21,797	\$21,814	\$ --	\$21,814
FTE Positions	--	--	--	--	--
Non-FTE Unclassified Permanent	--	--	--	--	--
Total Positions	--	--	--	--	--

Performance Measures	FY 2007 Actual	FY 2008 Estimate	FY 2009 Estimate
Number of business licenses issued	186	185	185
Number of employee licenses issued	243	241	241
Number of examinations conducted	15	15	15

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**Testimony re: HB 2315
Senate Commerce Committee
Presented by Ronald R. Hein
on behalf of
Kansas Association of Real Estate Inspectors
March 11, 2008**

My name is Ron Hein and I am legislative counsel for Kansas Association of Real Estate Inspectors (KAREI). KAREI is the professional trade association for individuals who inspect real estate, primarily residential homes, in order to protect individual home buyers from electrical, plumbing, mechanical, construction, or other problems that might otherwise be undetected by home buyers. KAREI is comprised of approximately 120 real estate inspectors in the state of Kansas.

KAREI supports HB 2315. As a brief history, the real estate inspection industry originally opposed regulation of their industry as it was being proposed by realtors, home buyers, trial lawyers, legislators and other consumers. Eventually, KAREI realized that consumer protection legislation was necessary to insure that real estate inspectors met minimum qualifications in order to hold themselves out to the public on a purchase which, for most individuals, is the largest single purchase that they will ever make in their lifetime. As a result, KAREI and its members decided to work with the proponents of regulatory oversight for home inspectors in order to be part of the solution. Jeff Barnes will elaborate a little more on this history during his testimony.

As you will hear from the opponents today, there are still home inspectors who oppose regulation. Reasons why individuals might oppose such regulation are as follows: 1) fear that the inspector cannot meet the minimum requirements; 2) fear that the regulation will be costly and burdensome; and 3) belief that there is no need for such regulation of the real estate inspection industry.

KAREI believes that the need for the minimal regulation has been sufficiently established to provide protection to home purchasers. The members of KAREI also feel that they are sufficiently competent and qualified that they will be able to meet the minimal education and competency requirements set out in HB 2315. Lastly, HB 2315, through the involvement of KAREI, has established competency requirements and fees which are not too costly for the industry and yet will provide sufficient resources to police the industry, and have established requirements which are not too burdensome on professionals operating within the industry.

The fee structure is very similar for that of other similarly situated professionals subject to a fee funded agency's oversight. The board that oversees real estate inspectors will be similar in size to the two smallest fee agencies currently provided in Kansas, those being

Senate Commerce Committee

March 11, 2008

Attachment 3-1

the Board of Abstractors, and the Board of Examiners of Hearing Instrument Dispensers.

KAREI would request the adoption of one balloon amendment designed to solve a problem which has been raised by some of the opponents to this legislation. Many inspectors who have been operating for years, who would be subject to the grandfather clause set out in HB 2315, have not completed a high school education or obtained a GED equivalent. Many such individuals have chosen to serve our country by joining the armed forces, rather than completing their high school education. We would not expect any individual to have to go back and complete their high school education in order to perform real estate inspections, which can involve more practical knowledge and experience about home construction, electrical, mechanical and plumbing issues, than it does a pure academic curriculum. Therefore, KAREI has attached a balloon amendment which would strike the requirement of real estate inspectors having completed a high school education.

KAREI urges the committee to adopt the balloon amendment, and to report HB 2315 favorably for passage.

Thank you for permitting me to testify and I would be happy to yield to questions.

1 of the following acts as part of the home inspection:

2 (a) ~~Performing or offering to perform for an additional fee any re-~~
 3 ~~pairs, remodeling or other type of remedial work to the dwelling for which~~
 4 ~~the home inspector has prepared a home inspection report within the last~~
 5 ~~12 months;~~

6 ~~(b) inspecting~~ **Inspecting** for a fee any property in which the home
 7 inspector has any personal interest unless the interest is disclosed in writ-
 8 ing to the client before the home inspection is performed and the client
 9 signs an acknowledgment of receipt of the disclosure;

10 ~~(c)~~ **(b)** offering or delivering any commission, referral fee or kickback
 11 for the referral of any business to the home inspector; and

12 ~~(d)~~ **(c)** accepting an engagement to perform a home inspection or to
 13 prepare a home inspection report in which the employment itself or the
 14 fee payable for the inspection is contingent upon the conclusions in the
 15 home inspection report, pre-established or prescribed findings or the
 16 closing of the underlying real estate transaction.

17 Sec. 10. On and after July 1, ~~2008~~ **2009**, all individuals performing
 18 home inspections as defined under this act in the state of Kansas shall be
 19 required to file a written registration with the board. All registrants must:

20 (a) Be at least 18 years of age;

21 (b) ~~have successfully completed high school or its equivalent;~~

22 (c) submit proof of current general liability insurance coverage in an
 23 amount of \$250,000 or more;

24 (d) submit proof of a fidelity bond to cover dishonesty in an amount
 25 not less than \$10,000 providing that the fidelity bond may not be termi-
 26 nated without 30 days prior written notice to the board;

27 (e) submit proof of financial responsibility by one of the following:

28 (1) A policy of errors and omissions insurance coverage;

29 (2) a surety bond in an amount not less than \$10,000, providing that
 30 the surety bond may not be terminated without 30 days prior written
 31 notice to the board;

32 (3) an irrevocable letter of credit not less than \$10,000 issued by a
 33 bank which is insured by the federal deposit insurance corporation or its
 34 successor if such letter of credit is initially issued for a term of at least
 35 one year and by its terms is automatically renewed at each expiration date
 36 for at least an additional one-year term unless at least 30 days prior written
 37 notice of intention not to renew is provided to the board; or

38 (4) the maintenance of a minimum balance of \$10,000 in an escrow
 39 account in a Kansas financial institution as defined in K.S.A. 16-117, and
 40 amendments thereto, provided that the escrow account shall maintain the
 41 minimum balance through the term of the registrant's registration as a
 42 home inspector. The board shall be notified in writing by the financial
 43 institution within 10 days if the amount in the escrow account falls below

[renumber remaining subsections]



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 Senate Commerce Committee

FROM: Jeff Barnes, President, Kansas Association of Real Estate Inspectors

RE: HB 2315 Kansas Home Inspectors Professional Competence and Financial Responsibility Act

DATE: March 6, 2008

Over the past several years the members of the Kansas Association of Real Estate Inspectors have worked hard to develop legislation which would help cultivate a stronger professional home inspection industry and provide basic protection for the home buying public. Our goal was to 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 protection 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 craft language which goes much farther.

HB 2315 establishes the Home Inspection Registration Board, which will oversee a totally fee based registration act to regulate the inspection industry with no negative financial impact to the state. The act gives the Board the oversight authority to insure inspectors are obtaining and maintaining the best training in the industry, while providing financial accountability to the clients we serve. HB 2315 establishes the framework and guidance for the Board to develop the administrative procedures and rules and regulations needed to insure and maintain a viable and professional inspection industry, which can grow and evolve as the industry matures.

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 protection for your constituents back home for which you can be proud to say you supported.

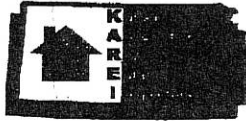
We respectfully urge your support of HB2315.

Senate Commerce Committee

March 11, 2008

Attachment

4-1



Certified Residential Mold Inspector



BENCHMARK PROPERTY INSPECTIONS LTD.

FAX COVER SHEET

DATE: MARCH 6, 2008

TO: JACKIE LUNN OFFICE OF SENATOR KARIN BROWNLEE
OFFICE 121 - E

FAX NO.: 785-368-6365

FROM : JEFF BARNES
BENCHMARK PROPERTY INSPECTIONS LTD.
FAX NO.: 316-777-9209
NUMBER OF PAGES INCLUDING THIS COVER SHEET: 2

COMMENTS:

If you have any questions please let me know

Thanks
Jeff Barnes

4-2

Your rights. Our mission.

To: Senator Karin Brownlee, Co-Chairperson
Senator Nick Jordan, Co-Chairperson
Members of the Senate Commerce Committee

From: Callie Denton Hartle

Date: March 11, 2008

Re: HB 2315 Relating to home inspections--**SUPPORT**

The Kansas Association for Justice is a statewide nonprofit organization of attorneys who serve Kansans who are seeking justice. We are pleased to offer our support for HB 2315 as amended by House Committee.

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. We believe that HB 2315 as amended by House Committee is a step in the right direction to providing security for Kansas home buyers. We applaud both the home inspectors and the Kansas Association of Realtors that have proactively recommended this bill to the Legislature.

When a family ends up with a "lemon" home, the family should rightfully have legal recourse against any unscrupulous or irresponsible party involved in the transaction. Sadly, current Kansas law works an injustice because the wrongdoer can often contractually avoid or immunize virtually all of its legal liability or responsibility for the harm.

For example, as long as the real estate contract gives the buyer the right to inspect the home before closing, and almost all such contracts do, the seller can even make a misrepresentation about the condition of the home to the buyer without any fear of legal liability.

With regard to home inspectors, a home buyer currently has little, if any, recourse because the home inspection agreement may limit the inspector's

Senate Commerce Committee

March 11, 2008

Attachment 5-1

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 bag which could be a heavy financial burden to bear.

Home-buyers typically lack the expertise to determine if a home is structurally sound and free of defects. As a result, a prudent home-buying family necessarily turns to a home inspector to determine whether the home is free from problems that would threaten the family's health or safety. So it is even more critical that home inspectors have adequate training and maintain at least minimum financial security for errors and omissions that may occur.

We believe that HB 2315 as amended is a step in the right direction towards protecting home buying families and giving them security that they are making a good decision on a major purchase—their home. In particular, KsAJ supports the following provisions:

- Home inspectors must be registered and meet minimum qualifications. We believe basic requirements for home inspectors will go a long way to eliminating unscrupulous and negligent inspectors, and overall reduce disputes between buyers, sellers, and home inspectors.
- Home inspectors must maintain minimum financial security of \$10,000 for errors and omissions, and allow buyers and sellers to negotiate for a greater assumption of liability. Major oversights in inspections could easily total \$10,000 or more. It is our hope that the \$10,000 minimum will cover most problems. For those buyers willing to pay more for a home inspection, there is an opportunity for inspectors to take on greater risks.
- Require that liability limitations be disclosed to consumers. Consumers should be made aware of the limits on liability that the inspector is assuming. Notice and disclosure are common-sense protections.

We urge the Senate Committee to support these important provisions, and recommend HB 2315 as amended by the House favorable for passage.

Thank you for the opportunity to present our testimony.



LAW OFFICES OF
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Ralph R. Brock
Robert I. Guenther
Ken M. Peterson
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Kristen Wheeler Maloney
Emily Cassell Docking
Kathryn L. Harpstrice

Of Counsel
John W. Johnson
Derek L. Park

Lester L. Morris
1901 - 1966
Verne M. Laing
1907 - 2000
Ferd E. Evans, Jr.
1919 - 1991
Joseph W. Kennedy
1932 - 2005
Dennis M. Feeney
1953 - 2001

Sender's email: erobinson@morrislaing.com

March 10, 2008

Callie Denton Hartle
Kansas Association for Justice
719 SW Van Buren
Topeka, KS 66603

Dear Callie,

Thank you for alerting me to HB 2315 as amended. While the bill's increase in liability limits is an improvement both to the earlier bill and to the current system, I have two concerns to express.

My concerns about HB 2315, as amended, stem from my experience in private practice. I practice in real estate and environmental litigation, and regularly encounter home buyers who discover problems or defects after closing. For example, I met a single mother who had recently purchased her first home. Her home inspection report showed no problems with the house. However, after moving in she began getting shocked whenever she touched a light switch in the kitchen. She quickly learned there was a substantial electrical problem, which should have been obvious to her home inspector. She had a viable claim of negligence against her inspector, but because the inspector had limited his liability to the price of the inspection, she effectively had no legal recourse. She was stuck in an unsafe home with her young daughter and was unable to afford the high cost of fixing the problem her inspector should have seen.

Another example is a young couple who had recently adopted a baby girl from China. To have space for their daughter to grow and play, they purchased a larger home. They purchased a home inspection, but the inspector did not notice substantial mold growth that the sellers had partially hidden, but which the inspector should have noticed. When the couple and their daughter moved in they became very sick, and the father and daughter ended up in the hospital. They soon learned the house was filled with mold and was causing their serious health problems. They were ordered by their doctor to move out of the house until it could be repaired.

Due to a limitation of liability clause, this young couple had no recourse against the home inspector beyond the price of the inspection, and for unrelated reasons could not pursue the sellers. As a result, they had to pay more than \$50,000.00 out of their own pocket to remove the

mold and repair the house. They are now in their house, but without their life savings because the home inspector was allowed to limit his liability.

These are not the only persons I have had to turn away because of liability limits in home inspection agreements, and I am sure other practitioners in this area could tell similar stories. Therefore, I believe HB2315 will be a step in the right direction by erecting a much-needed regulatory structure and preventing inspectors from limiting liability in home inspection agreements to the price of the inspection.

While HB2315 has its benefits, there are two issues the Committee should reconsider. The first is the \$10,000.00 liability limit with the possibility that buyers could negotiate greater coverage. While it may be sufficient to fix minor problems an inspector has missed, a base \$10,000.00 limit will not protect Kansans whose life and health are turned upside down by problems a home inspector should have discovered. These are the egregious cases we sometimes hear about, and are the types of situations HB2315 will not ameliorate. In addition, because the cost of litigating such cases can easily exceed the base liability limit, it may also discourage home buyers from pursuing their legal rights in court. By limiting an inspector's liability to an arbitrary amount, HB2315 will suffer the same inherent problems as the current system of allowing inspectors to limit liability to the price of the inspection, another arbitrary, albeit lower, amount. In the end, it will prevent many home buyers from being made whole.

The second aspect of HB2315 that deserves a second look is the one-year statute of limitations. In Kansas, the statute of limitations for negligence is two years, and there is nothing in my experience that makes the negligence of a home inspector any different than the negligence of a doctor, lawyer, accountant, or any other person. In the interest of uniformity, the statute of limitations should be two years for all acts of professional negligence. More importantly, because problems such as leaky foundations may not be immediately discoverable within one year, especially during periods of drought, a two-year statute of limitations is appropriate.

Thank you for alerting me to this proposed bill, and give my regards to those who introduced and supported it. I believe HB2315 is a step in the right direction for all Kansans, and with changes suggested above, home buyers in Kansas will finally have the protections they need and deserve.

Sincerely,



Edward L. Robinson



Midwest Pro-ASHI Chapter

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

Wichita Regional Inspection Group
Local Coordinator, Jack Koelling

March 10, 2008

The Honorable Senator Karin Brownlee
Assistant Majority Leader
300 SW 10th Street, Rm #123-S
Topeka, KS 66612-1504
brownlee@senate.state.ks.us

RE: HB2315

Dear Senator Brownlee:

I'd like to voice our support of the above captioned bill in its current form. This bill is the result of considerable negotiation with industry stakeholders to find a compromise between providing protection for home buyers while avoiding excess regulation, regulatory fees, and insurance requirements. These negotiations were not without detractors within our industry, and considerable concern remains that the language of the bill might be changed. Any changes in the bill that would create additional expense or liability for the home inspector would be unacceptable and cause us to immediately withdraw our support.

In summary, we encourage you to pass this fair and equitable bill as written, and avoid the temptation to make changes or succumb to the pressures of special interest. If costs for the home inspector are increased through added insurance requirements or greater liability, we will have no choice but to withdraw our support. The general public will not benefit from a more restrictive bill, as it would substantially raise costs and may reduce or eliminate available service to some areas of the state. The best protection for a home buyer is not burdensome regulation, but their free and unrestricted right to choose a certified member of the American Society of Home Inspectors (ASHI).

Kerry Parham,
President Midwest Pro-ASHI Chapter
12601 Jayson Lane
Wichita, KS 67235
(316) 722-2999 (office) (316) 722-4463 (FAX)
terrainspections@cox.net

Senate Commerce Committee
March 11, 2008

Attachment 6-1



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.

March 11, 2008

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 seventh year of business. Our services include engineering evaluations, whole house inspections, partial inspections, radon testing, manufactured home foundation evaluations, expert witness work, and camera sewer inspections.

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

This document contains additional information as to why we support the amendment that Licensed Professional Engineers should be exempt from House Bill 2315.

Originally stated in this bill:

(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*".

As presented previously in regards to the above statement:

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.

We 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.

Our previously presented recommendation in regards to the above statement:

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 or a more detailed evaluation). We have both designed state buildings. Many other states have exempted Licensed Engineers and Licensed Architects from home inspector licensure laws.

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

Sincerely,

Julie Lyle, P.E.
President

and

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

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.

Introduction:

My name is Randy Sipe, I was born in Kansas and have lived 52 years as a Kansas resident. I am also a home inspector in Kansas.

I am the legislative Committee Chair for the Great Plains Chapter of ASHI.

We are a group of approximately 85 inspectors working primarily in the eastern part of the state.

I am here for our membership speaking as a proponent of HB2315.

HB2315 is a bill that protects the public interest simply by establishing the standards and minimum level of competency to perform home inspections in the state of Kansas.

I will not go through the bill but only will give a couple of analogies.

In the State of Kansas you must complete 1,500 hours of classroom and hands on experience to become a cosmetologist, so a client can sit in your chair for 30 minutes, 5 minutes in my case, to spend \$20 on a haircut.

As of now in Kansas a family has a home inspection done by a person who does not have to have any training what so ever on a purchase that is the largest single investment most of us will make in our lives. Bad hair day \$20, Poor inspection can be more than financial.

When we have standards and minimum level of competency as in HB2315 the public will at least have some protection from a bad home inspection and the minimum competency will be more than a screwdriver and pair of pliers as it is now.

Thank you for your time and commitment to the residents of the State by serving the State of Kansas.

Randy Sipe,
A Kansas Home Inspector

Senate Commerce Committee
March 11, 2008

Attachment 8-1



KARCI™

KANSAS ASSOCIATION OF RESIDENTIAL & COMMERCIAL INSPECTORS
11184 Antioch • Ste. 103 • Overland Park, KS 66210
(800) 686-1034 • (425) 696-2185 (Efax)
Email: KARCI4ALL@yahoo.com

Co-Chairs Senator Brownlee and Senator Jordan
Members of the Commerce Committee
Kansas State Senate
State Capital
Topeka, KS 66612

11 March, 2008

RE: Position Statement HB2315

Dear Senators,

First I would like to thank you for this opportunity to express the views and opinions of the membership of KARCI and the NAHI national legislative committee.

Our members would like to ask you to vote NO on HB2315. This bill is I an inequitable piece of proposed legislation that unfairly burdens the Home Inspection industry in Kansas. This bill makes it “against public policy” for a home inspector to use language in their contract that limits their liability regarding their service. On its face, it attempts to aid an unsuspecting public from unscrupulous home inspectors. While in reality, its main purpose is to decrease the liability of the realtors and eliminate an impediment to prosecution by trial attorneys, the true beneficiary of this proposed legislation.

This bill imposes the heavy hand of government and prohibits a prosperous economic climate which helps our industry survive. At a time of increasing costs including a stagnant economy, potential recession, increasing fuel costs and a down-turned real estate market the impact of this bill has a huge impact on our industry. Our net profits are already at a bare minimum with many inspectors struggling to support their families. This bill would increase that burden to a point that will place many out of business. In rural areas the inspectors will simply be put out of business; period.

This bill imposes an undue liability on the inspector while our state fails to enforce any building standards, does not require disclosure by homeowners, and demands no equal bonding or insurance requirements or limits of liability by the Realtor. This bill creates a distinct conflict of interest between the inspector and Realtor by establishing a position on the inspection board.

There is no statewide demonstrated need for this bill nor has significant harm has been done to the citizens of Kansas. The State’s Attorney Generals office and the Better Business Bureau show very few complaints against inspectors in this state while other industries involved in the real estate process continue to have increasing and/or high amounts of complaints. I ask you to consider the home inspection industry, its business owners, employees, and families you will harm if this bill is passed. While we do not have a powerful lobbying arm to influence our legislative body, we are no lesser in need of your consideration. Thank you for your time.

Sincerely
Michael Greenwalt, President
Kansas Association of Residential Inspectors
Member, National Association of Home Inspector (NAHI) Legislative Committee

Senate Commerce Committee
March 11, 2008
Attachment 9-1

Dan Bowers

1. Dan Bowers, CRI

Certified Residential Inspector, NAHI

FHA Compliance Inspector

Certified Member ASHI, #1038

EDI Certified Stucco / EIFS Inspector

Code Certified Residential Dwelling Inspector

NRSB Certified Radon Measurement Specialist

Senate Commerce Committee
March 11, 2008

Attachment 10-1

Points To Ponder

Kansas HB-2315

- 1) This Bill is NOT consumer driven, nor does it really provide any SIGNIFICANT protection for the consumers - its being entirely driven by Realtors, some Trial Attorney's and a small select group of home inspectors called KAREI (Kansas Association of Real Estate Inspectors). KAREI portrays themselves as a statewide association that represents **ALL** home inspectors. In fact they are almost exclusively **ASHI** members (and their Board & Officers are **ALL ASHI** members).

Realtors claim they want to PROTECT the public from unqualified persons. We've seen no case studies in Kansas that show home inspectors to be unqualified. We do have unsubstantiated claims, innuendo and antidotal evidence (most coming from commission house sales people – “He stayed too long; he was too picky; his report was too big; he found these problems and the buyer cancelled the contract; **he killed my deal**”), but nothing that really suggests widespread abuse or large damages caused to the public. **There are lawsuits and claims against inspectors as in any small business.** Some have merit some do not. There is not enough evidence to show a need to protect the public. At least show FIVE or SIX unqualified inspectors that would be eliminated by imposing a law. Why create a bureaucracy, a 5 or 6 member panel appointed by the governor, fees, continuing education costs, testing fees, and administrative costs for a VERY TINY industry (175-225 people) that has greatly benefited the public and caused very little harm in doing so.

- 2) Last year Realtors started telling legislators that there are a HUGE amount of problems with home inspectors in our state. However when we wrote the BBB, the Attorney Generals Consumer Complaints Dept, and Consumer watchdog groups like HADD (Home Owners Against Deficient Dwellings), etc we discovered that **YES** we had issues like **ANY** small business – **BUT we had fewer complaints over the past 3 years than ANY OTHER** real estate or construction related industry in our state **AND we had fewer complaints than even florists.**

We also discovered that the LICENSED Real Estate Agents themselves had a very large amount of their members who have **currently** had disciplinary actions filed with the real estate commission and been charged with serious crimes like: drug use, drug distribution and sales, robbery, rape, assault, sodomy, firearm related crimes, DUI's, passing bad checks, involuntary manslaughter, etc.

- 3) The **KAR lobbyist** (Luke Bell) and many Realtors keep telling the legislators that if a home inspector uses a service agreement with language that limits his/her liability - if anything ever goes wrong the clients have no recourse against the inspector. This is totally **FALSE**. If that was the case there would be no lawsuits against doctors, schools, real estate agents or other services that also utilize limit of liability clauses in their contracts.

As we all know if you go in for lasik surgery, send your child on a school outing **OR** buy a house you will be required to sign some type of contract agreeing to some type of limited liability against the other party. **BUT** if the school bus driver shows up drunk and runs the bus off the road; the doctor nicks your cornea and leaves you blind; or the listing agent fails to disclose to the buyer or the selling agent that a previous termite inspection discovered massive termite damage (now painted over and hidden), and **the buyer later finds out** in each of these situations there will very likely be a lawsuit, regardless what the client signed.

The same is true for the home inspector and his/her service agreement. As with other businesses, if a client feels they have been wronged there is the judicial system. **If a court of law or judge determines there is merit in the case there will be a lawsuit.** If not they may dismiss it OR direct it to arbitration or mediation. There is also small claims court (good for \$4,500 in Kansas).

- 4) In Kansas, under state statutes persons preparing plans, drawings or specifications for 1&2 family houses are exempt from the State Engineering & Architectural laws. Therefore *the Kansas State Board of Technical Professions has stated that they would have no authority over an engineer performing a visual home inspection (home inspection services by an engineer do not fall under their jurisdiction).* In Kansas, engineers are not required to have liability or errors & omission insurance to get a license. They are not required to have a fidelity bond, a dishonesty bond or a surety bond to get a license. Engineers performing home inspections are not prohibited from using a limit of liability clause with their services. There are over 45 known engineering degrees, including computer software design, farm agriculture design, and marine biological engineering. Everyone of these people would be exempted from the inspection licensing law as written.
- 5) Under the proposed home inspector licensing law, you are required to have a high school degree to be licensed. We have got 50 to 60 year old men that have been doing home inspections for 10-15 years - but dropped out of high school 35 years ago to go to work helping support their family. For example, dad got killed in a farm accident - and 16 year old Bobby dropped out of school to run the family farm and support his mom, little brother and sisters. Three years later, he got drafted and was sent to Vietnam. When he got out of Vietnam, he went back to the farm. Twenty years later later he starts doing home inspections. Today he has a successful small mom and pop business.

After 15 years in business, do we run him out of business OR make him go back to high school?

- 6) As written, the Kansas home inspector regulatory Bill, has NO protection for our homeowners against violent criminals, drug addicts, sex offenders OR child molesters. On page 6 / line 17, the HB-2315 has the **ONLY** restriction for addressing criminal activity's of a home inspector. *In giving a reason why the Home Inspector Board can deny, suspend, revoke or impose probation on a home inspector it says: "if the applicant has been convicted or pled guilty, etc, etc to forgery, fraud or conspiracy to defraud, etc, etc, etc"* In other words, someone who sold **black velvet Elvis pictures** at the state fair and forged the KING's signature on the photo **COULD NOT** be a Kansas home inspector – but your neighborhood child molester, bank robber, drug dealer, rapist, murderer, or local gang banger involved in drive by shootings **COULD**. This is sick.

Because they were getting worried about the serious criminals in their own ranks, last year in 2007 the KAR (Kansas Association of Realtors) themselves put a Bill in place for NEW incoming real estate agents. If it was good for them, it should be just as fine for Home Inspectors. Its basics were they "Grandfathered: their existing agents and then put the following rules in place:

1) If a person has been convicted and found guilty, or entered a plea of guilty or nolo contendere, in a felony prosecution under the laws of any state in the United States for ANY violent crime or sexual offense the Home Inspection Board may prohibit this person from registering as a Home Inspector UNLESS 10 years has elapsed since the applicant was discharged from post-release supervision.

2) If a person has been convicted and found guilty, or entered a plea of guilty or nolo contendere, in a felony prosecution under the laws of any state in the United States for ANY type of felony (other than in #1 above) the Home Inspection Board may prohibit the person from registering as a Home Inspector UNLESS 5 years has elapsed since the applicant was discharged from post-release supervision.

To protect the Kansas Consumer and Homeowners, we need to amend HB-2315 to cover this.

7) Rural Areas

- a) Many Rural Kansas Cities are **SMALL with only 5,000-21,000** people, Such as: Colby - 5,400; Goodland - 5,100; Ft. Scott – 8,076; Chanute – 8,700; Great Bend - 14,100 or Hays - 19,100; Dodge City – 20,680.
- b) These same towns are often 45 - 75 miles from a town of any larger size;
- c) According to National Surveys done by franchising associations, NAHI, ASHI, etc. and practical experience - It typically takes a population of at least 10,000-15,000 people or at least 200 to 300 home sales a year to support 1 Home Inspector (assuming that 65% of those home sales get a Home Inspection, and in small rural areas maybe only 40% get inspections);
- d) That means that it will be economically impractical for an inspector to make a living doing Home Inspections in many small rural area's of Kansas (they don't have enough homes being sold to generate the amount of Home Inspections for the inspector to pay for licensing fee's, mandatory E & O insurance that the "**BIG CITY**" or union type inspectors are asking for);
- e) It also means that under proposed regulatory laws, an inspector from these areas would be prevented from getting a license for varying reasons (**such as how will he/she be able to get the 3 years work experience AND 300 inspections to get into the business**);
- f) *Bottom Line* – Many small rural areas that now use a competent "**LOCAL**" builder, contractor, etc. will either not be able to have Home Inspections or they'll have to call on one of those "**BIG CITY**" Home Inspectors from "**OUTSIDE**" their "**LOCAL AREA**" who hasn't got a clue how things are done locally and because the "**OUTSIDE INSPECTOR**" is "**NOT A LOCAL BOY/GIRL**" they'll probably charge a lot to get there – **BIG FEE's**;
- g) Since we don't have "Mandatory Building Codes or Licensed Builders & Contractors" in over 3/4th of the Counties of Kansas, the "**NEWLY** regulated Home Inspectors" will be often times reporting on or citing violations of conditions that may not be required locally – resulting in lost real estate sales, "**ANGRY**" sellers / realtors, **LOST SALES & commissions, & angry constituents!!!**

Heartland Home Inspections, LLC
Jay Rusk, 785-842-9000
heartlandinspect@hotmail.com

I am in opposition of HB2315 because I do not feel it is in the best interest of the average consumer. Specifically the areas of \$10,000 of liability per inspection and the recover damages clause for 12 months are areas of great concern. It is my opinion the cost of doing business will go up significantly due to lawyer fees and the threat of legal action. One example could be old galvanized plumbing in a crawl space. Even through I outline a problem, old galvanized plumbing has a history of leaking over time. I inform the buyer of this possible problem and tell them I did not see any leaks at this time. Six months later the plumbing starts to leak and the plumber tells the buyer it will cost \$3000 to replace the plumbing. Now I receive a letter from the buyer's attorney that says I owe the buyers \$3000 because I did not make the buyer aware of the severity of the problem. Even through I did inform the buyers, I still have to hire an attorney to defend myself or try and settle for less money. In this scenario, this buyer is being unreasonable, but he hires an attorney and his/her job is to try and get his/her client money under the clause of \$10,000 liability and 12 months to recover damages. To try and protect myself, I now have to go into great detail about every minor flaw in the

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Attachment 11-1

Kansas Senator

1. A battle reminiscent of the ALAMO or CUSTER'S LAST STAND has formed between the 10,000 plus commissioned real estate salespeople in the state and the small group of state home inspectors estimated to be between 175 and 200 strong for control of the home inspection industry.

Why would the state Realtors Association be trying to control Home Inspectors?? It's simple really!

A home inspectors duty is to act as an independent, unbiased and objective third party and provide pertinent information to his/her client during a real estate transaction. The client (usually the buyer) can then make an informed decision about whether to buy / not buy OR renegotiate the sales price or cost of needed repairs in the transaction. This often means lowered commissions, more work or lost sales for the commissioned sales people if the buyer and seller can't come to a mutual agreement.

This past year homeowners in Kansas are suffering foreclosures and other injuries from a real estate industry that is totally out of control. This past year we've seen numerous TV and newspaper articles in our state about shoddy construction killing people in counties without codes; media reports about real estate agents and mortgage lenders being arrested and charged with mortgage fraud; media events about contractors and home builders that have ripped off literally hundreds of consumers in our state.

Many real estate agents have complained that home inspectors, by virtue of uncovering and reporting on hidden or undisclosed defects in houses they are trying to sell, have cost them thousands of dollars in lost commissions. What is the Realtors answer? Is it to require mandatory building codes inspections in a state without this; is it to require mandatory code inspections in a state without them; is it to require mandatory licensing of builders, contractors or tradesmen in a state lacking this? NO – the Realtors answer is simple!

The Realtors who have the largest lobby in the state, and the biggest purse to use to try and influence the votes of state legislators have gotten together with several special interest groups like trial attorneys and a small group of home inspectors from one association and written a bill that will give them and their cohorts control of the home inspection industry at the expense of the Kansas consumer.

The answer proposed by the real estate lobbyists, pushed through by their favorite state representative, is to stifle the only objective voice in the process of selling a home. With the average house in our state selling for about \$265,000 the real estate commission is around \$16,000. The average home inspector would earn around \$265 to \$300 for inspecting the same house. The bill as written shifts most of the liability off Realtors, builders, contractors and sellers that fail to disclose known defects AND puts it squarely on the shoulders of the home inspector (the lowest paid party in the transaction). The bill will create an autonomous board influenced by the Realtors and the lobbyists to control what home inspectors are and are not allowed to tell home buyers as they consider buying a home.

Say NO to the lobbyists. Say NO to the commissioned salespeople who will be selling these homes for additional commissions. Keep home inspectors independent of the Kansas Association of Realtors, their lobbyists and other special interests. Don't delay – Call your senator and state representative today and let them know that you oppose HB-2315 and want them to oppose it, too.

Mike Greenwalt, President-Kansas Association of Residential and Commercial Inspectors

Mike Pritchett, President-National Association of Home Inspectors, Heartland Chapter

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Attachment 12-1

My Name Is David Moriconi

I am the secretary for KARCI Kansas Association of Residential and Commercial Inspectors

I am writing in opposition to House Bill HB-2315 which is now in the senate.

There are numerous aspects of this bill that are opposed by members of KARCI, NAHI (National Association of Home Inspectors), NACHI (National Association of Certified Home Inspectors), Independents, and yes some ASHI (American Society of Home Inspectors), however I will just address one at this time.

If this bill passes it will force home inspectors to accept \$10,000 of liability for defects in the home that are unreported regardless if these defects were observed in the home inspector limited and visual inspection. It will make home inspector liable for \$10, 000 no matter if the home was built by a licensed or unlicensed general contractor, by licensed or unlicensed sub-contractors such as electrician, plumbers. roofers, HVAC contractors.

It will make the home inspector liable for \$10,000 if the home was built in any one of many counties in Kansas that do not have building codes. It will make the home inspector liable for \$10,000 if the home was built in many counties of Kansas that do not have new home building city or county inspectors.

This bill makes the home inspector the scapegoat for poor workmanship that never should have happened and is being passed on to the original and subsequent buyers.

Why would Kansas impose a law that limits the liability that a home inspector is willing to accept? Kansas does not prevent a limit a liability for example, a lasik surgeon (you need to read one of their contracts before lasik surgery). Kansas does not limit the liability of an engineer doing home inspections, and Kansas does not limit the liability of a real estate agent (read their contracts they limit themselves many times over).

Please do not allow KAR Kansas Association of Realtors and a small group of self serving home inspectors a victory in controlling the home inspection industry with the passing of this bill.

Home Inspectors are the only non-bias parties in the sales transaction of a home sale. We are hired to protect the interest of the home buyer not to be controlled by the real estate agent looking to make a large commission.

Please vote NO and stop this realtor bias legislation

Sincerely

David Moriconi, CRI
Secretary KARCI

Senate Commerce Cor
March 11, '1
Attachment 1-

BAUER INSPECTION & CONSULTING SERVICES



STEPHEN L. BAUER
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March 11, 2008

I have been a Real Estate Inspector since 1985, and have been licensed in the state of Texas since 1986 when licensing became a requirement in that state. I have been performing inspections in Kansas since 1998, and have performed over 10,000 fee paid inspections since 1985. Over 6000 of these inspections have been in Kansas.

I offer the following comments and recommendations to HB 2315.

Briefly: The bill provides for a "Pre-Inspection Notice" to be provided to the buyer prior to the inspection. The Bill also provides for a "Pre-Inspection Agreement" (written contract) The Pre Inspection agreement will certainly have all of the information regarding scope and liability, therefore the "Pre-Inspection Notice" appears to be a redundant document.

Section 1, (e) p.2 line 17-19 (e) "Pre-Inspection Notice" means a document which shall be provided to a customer prior to the start of the home inspection. The pre-inspection notice shall contain, at a minimum, the following information:

- (1) ...scope
- (2) ...Liability limits
- (3) ...memberships in National organizations
- (4) ...Identify standards of practice.

Comment: The items listed on this "Pre-Inspection Notice" **should be and are on the "Pre-Inspection Agreement"** (the contract) The intent, apparently, is to provide this "Pre-Inspection Notice" to the buyer before the inspection. It has been suggested that the Realtors could provide this to the buyers. *I do not know any Realtor who will want the responsibility to provide this document for any of the inspectors available to the buyer.* Also, there are many inspections that the inspector does not have any contact with the Buyer until they meet at the inspection.

It is a redundant document. If the buyer wants to know these issues days before the inspection, it should be the buyer's responsibility to ask these questions prior to the inspection. The inspector will let the buyer know 'at the latest' at the time of the inspection.

RECOMMENDATION: Eliminate the "Pre-Inspection Notice", while requiring those items to be on the "Pre-Inspection Agreement" (contract)

Section 3, (b) (1) Line 10....15

The Act calls for 3 members of the Kansas Home Inspectors Registration Board to be Home inspectors, and one member to be a licensed real estate salesperson or broker, and one member at Large.

Comment: I don't think it is a good idea to have a real estate salesperson or broker with control of any sort over the inspectors. We, as inspectors, should be completely free of influence by the real estate salespeople. We are hired to represent the buyers, while the real estate salespeople have their obligation to the sellers.

RECOMMENDATION: Have 4 members on the Board as Real Estate Inspectors, and one member at large.

Briefly: It is a direct conflict of interest for an Inspector to perform repairs to a property that he/she inspects. However, language prohibiting Inspectors from performing work on a property inspected by the Inspector has been removed from the current bill. The integrity of the Inspector and the un-biased inspection require that this restriction be re-instated.

Section 9, (a) p.7 lines 2-5 Earlier versions prohibited the inspector from:

- (a) “Performing or offering to perform for an additional fee any repairs, remodeling or other type of remedial work to the dwelling for which the home inspector has prepared a home inspection report within the last 12 months. “

Comment: This item was struck from the bill and should be re-instated. Even though the Standards of practice of all of the Inspector organizations prohibit this, this is fundamental to the integrity of the inspection process; that is, that the inspector is completely unbiased in his findings and opinions.

RECOMMENDATION: This language should be re-instated into the bill.

Section 10, (d) line 24 Calls for a \$10,000.00 Fidelity Bond.

It also calls for \$250,000.00 general liability coverage and proof of financial responsibility in one of several ways including E & O Insurance.

Comment: This appears to just be an unnecessary additional cost of doing business. The cost requirements imposed by this bill are mounting. There are already criminal statutes to cover dishonesty.

RECOMMENDATION: Eliminate the requirement for the \$10,000.00 fidelity bond.

Briefly: The Bill requires membership in one or more national organizations involving Home Inspectors. Some of these organizations have different agenda's, and are self promoting. The Kansas Inspectors can use the Standards of Practice of one of these organizations, but should not be required to be a member of a Trade organization.

Section 10, (f) p.8 Line 9 (f) Requires proof of membership in one or more nationally recognized societies, associations, or organizations....

Comment: I think it is a mistake requiring membership in a National Organization for registration in a State occupation. What do these organizations have to do with Kansas Inspections? We should set our own standards for registration and not apply National membership as a requirement.

RECOMMENDATION: Eliminate subsection (f) requirement of being a member in a national organization.

Briefly: The current Bill has raised the liability for errors and omissions to \$10,000.00, and added the option to raise that liability limit if desired by the inspector. I believe that the inspector should be able to set his liability limit at whatever level that the inspector wants, as low as the fee for the inspection if he desires. If the buyer is uncomfortable with that, he can find another inspector who has a higher liability.

I consistently review this condition with my Buyers, and assure them that I cannot guarantee that I will find every defect in their house, nor do I warrant that any function of the house will perform in the future as it has in the past. Almost every buyer acknowledges this with a smile and response of understanding. And then they sign a statement indicating that they agree to this condition.

Section 11, (c) p. 8 line 30 In effect, places a liability of \$10,000.00 for errors and omissions that arise out of a home inspection, and provides for greater liability if the inspector discloses such increase in liability in writing.

Comment: I think that an inspector should be able to set his own limit of liability, be that, the cost of the inspection, \$10,000.00, or whatever higher amount agreed upon by the buyer and the inspector.

As of now (1997), the Kansas State Court of Appeals has confirmed that position in Moler vs. Melzer. Case No. 76,282

www.kscourts.org/kscases-and-opinions/opinions

This case strongly affirms the right of an inspector to limit his liability and requires that the inspector specifically inform the client of these limitations. Inspectors do inform the buyers of that limitation in their "Inspection Agreements (Contracts.)"

RECOMMENDATION: Remove from the bill, Section 11, (c) the \$10,000.00 liability limit, and allow the Inspector to establish his own limit of liability, unequivocally stated in his "Inspection Agreement" and agreed to by the client (buyer).

Specific wording for Section 11, (c), might be:

(c) The home inspector may include, as a term or condition in an agreement to conduct a home inspection, a provision that limits his liability for any errors and omissions which may arise during a home inspection, and that the limits of the home inspectors liability must be clearly expressed in the "Inspection Agreement".

This is the most detrimental condition in this bill. The Kansas State Court of Appeals has addressed this issue and supports the inspector's right to limit his liability. If the buyer does not want to agree to the terms of a specific inspector's limitations, he is free to choose another inspector.

Section 11, (e) p.9, line 1

Comment: I think this is already covered, but I propose amending this to read as follows, to be consistent with the earlier recommendation to allow the inspector to set the limit of his liability.

RECOMMENDATION

(d) In any action to recover damages for any error or omission of a home inspector relating to a home inspection or home inspection report, a home inspector may be liable for any errors and omissions which may arise during a home inspection in an amount not to exceed the liability limit as stated in the "Inspection Agreement" in the aggregate for each home inspection, provided that a home inspector provides the customer with a clear written description in the pre-inspection agreement of the limited liability.

Respectfully submitted



Stephen L. Bauer
Licensed Professional Real Estate Inspector TREC 392
(Current active license in Texas since 1986)

House Bill 2315

March 11, 2008

John Kurtz, CRI
Homestead Inspection Co.,LLC
120 E. Ruby Ave.
Independence, Mo. 64050

Past- President, Co-Chair of The National Association of Home Inspectors, Inc. Heartland Chapter our association represent home inspectors in Kansas and Missouri

I will be 60 years old this year. My father was a Kansas City firefighter killed while on duty, so when I was old enough, I dropped out of high school to help support my mother and younger brother.

At the age of 17, I joined the Army and served in Vietnam, earning the Army Commendation Medal.

On returning home, I drove tractor-trailers across the country. Driving an 80,000 pound rig on the nation's highways doesn't take a diploma, it took experience.

For the past 30 years I have been successfully self-employed. Doing home inspection for 16 years, and have completed over 8,000 home inspections.

I do not have a high-school diploma or GED. What I do have is experience. Page 7 Line 21 of this bill has: have successfully completed high school or it's equivalent.

A piece of paper does not show the worth of an education, the real education comes from years of experience.

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Attachment 15-1

But if you pass this bill, I will be out of a job **that** I have had for 16 years and would like to retire from in 5 years.

With the passing of this bill, an 18 year old just out of high school with no construction experience could become a home inspector, but my livelihood will be gone as well as others who have a wealth of experience and provide a quality service for the home-buying public of Kansas.

Please do not put me out of work.

I am a Home Inspector in Garden City, Ks. I have been in business for 17 years.

1. This bill needs several modifications.

The bill is written to eliminate competition. Consumer protection is the last thought

The bill requires mandatory membership in organizations at the choice of the board members.

The board is to have 5 members with 3 to be home inspectors. The bill is written so loose that 3 inspectors can dictate how all other inspectors in the state function

The bill does not have a Grand Father clause. It would eliminate hundreds of inspectors who have made inspections there main source of income

The bill does not allow on the job training with a licensed inspector.

The high insurance requirements and high limits of liability will require my company to increase inspection costs app. \$100 per inspection. This will limit lower income home buyers the opportunity to have a home inspection. The one's that need it the most

The bill does not reciprocate with other licensed states

Your consideration into this bill would be greatly appreciated

Sincerely

Ronald Naab

ASHI Certified Home Inspector

ronnaab@cox.net

Senate Commerce Committee
March 11, 2008

Attachment 16-1

To: Commerce Committee Members:

1. I am President of Homeowners Against Deficient Dwellings, a national grass roots not for profit (501c3) advocating for the safe and sound construction of new homes. A home is the largest purchase a family will ever make. At this time, in the state of Kansas, there is no consumer protection for that purchase. Our organization would find it far more important to pass legislation that would hold a home builder accountable and responsible for shoddy construction than to license Home Inspectors who are the only neutral party working for the buyer in the purchase of a new or resale home. Every other person involved in the transaction has a vested interest in the sale.

In the 15 years that I have been dealing with homeowners in Kansas, and across the nation, I have never had a complaint against a Home Inspector. At the same time there have been tens of thousands of complaints about home builders cutting corners to add to the bottom line. The lack of window flashing, roofing felt, rebar in foundations, and improper grading, all of which allow water intrusion are issues that buyers count on Home Inspectors to find.

I might add that I have heard numerous complaints from Home Inspectors that some Realtors refuse to add their names to lists they give to prospective buyers if the Home Inspector has ever found issues that killed a deal. Honest Home Inspectors and honest Appraisers need protection from Realtors and Mortgage Brokers who only list professionals who do their bidding, not the other way around.

I am certain that the Attorney General's consumer protection division would tell you that complaints against Home Inspectors are minimal as compared to other issues regarding home ownership like fraudulent appraisals, fraudulent lending, and shoddy construction.

Please do not pass HB 2315 out of committee. At this time Home Inspections are affordable for purchasers. This legislation will certainly raise the cost and in my opinion will do nothing to protect the public since it seems to me that on this issue there is nothing to protect the public from.

Because Builders Owe a Duty Beyond Cashing Your Checks
Request for a Congressional hearing concerning accountability of the home builders in Kansas

Nancy Seats, President
Homeowners Against Deficient Dwellings INC. (HADD INC)
Member: National Alliance Against Construction Defects
A National Not for Profit Organization
Home: 314-909-1667
Cell: 816-560-0030

"Never doubt that a small group of thoughtful committed citizens can change the world. Indeed it is the only thing that ever has." Margaret Mead

"The moment the idea is admitted into society that property is not as sacred as the laws of God, and there is not a force of law and public justice to protect it, anarchy and tyranny commence.

Senate Commerce Committee

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Attachment 17-1

Property must be sacred or liberty cannot exist. " John Adams

3-10-08

1. Dear Senate Commerce Committee Co-chairs Senator Karen Brownlee, Senator Nick Jordan and committee members,

I am providing you my testimony regarding HB 2315. As a business operator in Kansas I have a keen interest in legislation affecting my industry.

The 2008 legislative season in Missouri and Kansas is presenting home inspector licensing or registration bills for legislators to consider. From Jeff City to Topeka the debate is lively. Today the "home inspector" is the only independent free-market third party protecting the homebuyer. Some of this pending legislation will effectively establish a statewide building standard and turn home inspection control over to the state.

State licensing of home inspectors: To include an appointed state commission setting up state approved testing, reporting standards and education. This would effectively mandate a statewide building standard. Inspectors who did not operate their businesses or report to the commissions standards would be in danger losing their state license to do business.

State registration of home inspectors: Would require home inspectors to provide to the state the proof of testing/education or membership in any of a number of national professional organizations who require ongoing education, quantification of skills and disciplinary avenues. No added state commission or state testing/education bureaucracy would be involved. There would of course be a penalty for any inspector working in the state without being registered.

Today Missouri and Kansas have no statewide standard/regulation for homebuilders, contractors, remodelers, trades people or home/building inspectors. If state licensing comes to fruition, only those homeowners using a building inspector and owners of the buildings inspected will be subject to this statewide building standard. Meanwhile homebuilders, contractors, remodelers, trades people statewide will continue to supply citizens in Kansas their services and products with virtually no statewide standards or regulation. Will the consumer weather the impending confusion with a statewide building standard being applied to housing built to no statewide standard?

Is the Kansas consumer being adequately served? Is significant harm being done to the citizens of both states? The home inspection industry is not a perfect profession – but inquiry letters and polls of the Better Business Bureau and state sources have shown that consistently the home inspection profession does not get any more complaints than the average small business of any kind, and receives significantly fewer complaints than most other construction and/or real estate related businesses.

Buying a home is a major financial investment. The buyer puts faith in the home inspector to help ensure that the investment is sound. Buyers ask how inspectors can not be licensed. Upon hearing that home inspectors in Kansas or Missouri are not licensed, a common reaction from

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Attachment 18-1

much of the general public is one of surprise. Because of this same question the Ohio Real Estate Commission, Department of Commerce ordered the May 2006 Feasibility Study for the State of Ohio on Home Inspector Licensure.

As part of this project, surveys were sent to real estate agents and home inspectors in six states; both with licensing of home inspectors and without licensing in order to quantify the differences between these two groups. The State of Missouri was one of the states without licensing that was surveyed.

A direct quote from the **Conclusion** of the Home Inspector Licensure Feasibility Study for the State of Ohio follows: "Quantifiable data did not appear to exist as to whether or not licensing actually ensures more qualified home inspectors. The data from these surveys does not support the idea that licensing creates more competent home inspectors. Real estate agents from both groups were overall equally satisfied with home inspectors in their state, and home inspectors from non-licensing states did not demonstrate any distinct disadvantage over licensed inspectors in areas of education or experience." Why create another level of bureaucracy that might not achieve its desired effect?

With no demonstrated need or significant harm being done to consumers I, Mark Adams and the Missouri Association of Real Estate Inspectors, a non-profit professional organization with members who live and work in both Kansas and Missouri, is opposed to the establishment of another unwarranted bureaucracy in Kansas.

Sincerely, Mark Adams President www.marei.org

END

CONTACT PERSON:

MARK ADAMS Cell 417-850-5559

Missouri Association of Real Estate Inspectors Ph: 888-848-4914

18921-G Valley View Pkwy. #135 Fax: 720-247-4882

Independence, MO 64055 Email: MAREI4U@yahoo.com

Dear Kansas Senators,

1. You have before you a home inspection licensing bill that was prepared by special interest groups to convince you that it "protects consumers".

What you do not have before you are the consumers. Why?

Consider that the nation's number one consumer advocate for defective houses..."Home-dwellers Against Deficient Dwellings" (HADD) opposes your licensing bill. Its president, Nancy Seats, has written several letters and articles calling upon you to abandon efforts to limit what home inspectors are able to do and devote your attention to controlling those creating the conditions that home inspectors report.

By omitting the necessary step of mandating building codes and licensing the builders and the contractors who create the defects - the consumer has been harmed whether he receives a home inspection or not.

In fact, at a house warming party in a small Kansas town two years ago....a brand new (poorly built) deck collapsed and killed a guest before the first payment was due.

The home inspector is the only objective party to the sale of real estate and the only one with no financial interest in the sale of the house. Creating a law where the agent who loses a sale can challenge the inspector's license for "turning off" his client creates an immediate and serious conflict of interest.

Please have the courage to say "no" to the special interests who have financial gain motivating them to push this legislation.

Please have the courage to stand up for the consumer who is NOT represented at this hearing by anyone but you....his senator.

Please have the courage to do the right thing and vote "no" on this home inspection licensing bill.

Jim Bushart

Home Inspection Services of Missouri
(Residential Buildings & Wells)
www.missourihomeinspection.com

Senate Commerce Committee
March 11, 2008

Attachment 19-1