

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairman David Wysong at 8:30 a.m. on March 13, 2009, in Room 545-N of the Capitol.

All members were present.

Senator Faust-Goudeau - excused

Committee staff present:

Ms. Margaret Cianciarulo, Committee Assistant

Mr. Norm Furse, Office of the Revisor of Statutes

Mr. Ken Wilke, Office of the Revisor of Statutes

Mr. Reed Holwegner, Kansas Legislative Research Department

Mr. Julian Efird, Kansas Legislative Research Department

Conferees appearing before the Committee:

Others attending:

See attached list.

**Continued hearing and possible action on HB2260 - an act concerning the Kansas home inspectors professional competence and financial responsibility act**

Upon calling the meeting to order, Chairman Wysong announced they would continue the hearing on **HB2260** and called on Mr. Ken Wilke to explain the final policy change yet to be made.

Mr. Wilke asked the Committee to turn to page 9 of the handout stating, yesterday when it was decided to make all registrations required by 7-1-2010 to eliminate the vypercated registration date, we forgot to look at paragraphs (B)(I) and (B)(ii) because corresponding to the vypercated registration date, there is also a vypercating situation relative to the grandfather clause and basically depends whether you are in large counties the waived part of the education fees if you completed not less than 100-fee paid home inspections and if it is a rural area that number goes down to 35. Since the vypercated registration fees have been eliminated, Mr. Wilke said he needs some direction of what the Committee wants to do on the grandfather clause. He offered a couple of choices, strike them out or combine them.

The Chair suggested to the Committee that they make this consistent so they do not have large and small counties and come up with a compromising number. He is suggesting 50 inspections.

Senator Reitz made a motion, to make this policy change be consistent, to get rid of the size of the counties (no large or small) and include 50 hours of home inspections. This was seconded by Senator Lynn and the motion carried.

A discussion was ensued with Senators Holland and Emler and Mr. Wilke regarding last year's number offered of 35. Mr. Wilke suggested starting small beginning with (B)(I) on page 9 reading "if the individual has been actively engaged . . ." and then finish out the sentence after changing the 35 to 50.

Senator Holland made a motion to strike out (I) in (B) and change the 35 to 50. It was seconded by Senator Emler and the motion carried.

Next, per the Chair's request to do a correct list from the real estate commission, Mr. Wilke directed the Committee to a large insert behind page 7 which includes:

1. The language regarding felonies
2. The removal of a couple of introductory clauses to make the insert conform with this issue
3. Subsection C

## CONTINUATION SHEET

Minutes of the Senate Commerce Committee at 8:30 a.m. on March 13, 2009, in Room 545-N of the Capitol.

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4. (D) the civil penalty provision the Committee agreed to yesterday.

A copy of this handout is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

The Chair asked if there was any discussion regarding the above? As there was none, Mr. Wilke stated the only other thing was the sunset provision which is located at the end of the bill.

He then went into the first section which provides a citation for the bill and then put a provision in that the act expires on July 1, 2013, three years after the registration start-up point. The Chair stated he had mentioned this yesterday, an idea that was brought forth from emails he had received including information regarding lawsuits in Texas. He said this time period of three years would give the organization time to see if this is working.

A discussion ensued between Senators Wagle, Holland, Emler and Wysong and Mr. Wilke that included:

1. The lawsuits in Texas, that is discussed in Mr. Gary Farnsworth's written testimony that is (Attachment 2) attached and incorporated into the Minutes as referenced.
2. The offenses on page 7, are we micro managing who gets in here and should we constrict who this impacts?
3. Termite inspectors, etc., these types of inspectors, do we have the same statute on these folks as with the real estate and home inspectors? Are they required to carry liability surety bonds?
4. Regarding EMS, how is this similar?

As there was no further discussion, the Chair asked for a motion regarding the sunset provision. A motion was made by Senator Schodorf to adopt the sunset provision. It was seconded by Senator Emler and the motion passed.

A motion was made by Senator Lynn to adopt the balloon. It was seconded by Senator Emler and the motion passed.

Senator Lynn then made a motion to pass favorably the substitute bill. It was seconded by Senator Schodorf and the motion passed.

### **Adjournment**

As there was no further business, the Chair stated that Vice Chairperson Lynn would be conducting the meeting of March 17, 2009 regarding the Goodyear bond. He then adjourned the meeting. The time was 9:20 p.m.

The next meeting is scheduled for March 17, 2009.

3/13/09

As Amended by House Committee

Session of 2009

HOUSE BILL No. 2260

By Committee on Commerce and Labor

2-4

10 AN ACT concerning the Kansas home inspectors professional compe-  
11 tence and financial responsibility act; amending K.S.A. 2008 Supp. 58-  
12 4502, 58-4503, 58-4504, 58-4505, 58-4506, 58-4509, 58-4510, 58-4511  
13 and 58-4512 and repealing the existing sections; also repealing K.S.A.  
14 2008 Supp. 58-4513.  
15

[ 58-4501,

16 *Be it enacted by the Legislature of the State of Kansas:*

17 ~~New Section 1. (a) As part of an application for registration or in~~  
18 ~~connection with any investigation of any registrant or applicant, the board~~  
19 ~~may require a person to be fingerprinted and to submit to a state and~~  
20 ~~national criminal history record check. The fingerprints shall be used to~~  
21 ~~identify the person and to determine whether the person has a criminal~~  
22 ~~history record. The board may require the applicant to submit the fin-~~  
23 ~~gerprints to the Kansas bureau of investigation and the federal bureau of~~  
24 ~~investigation for a state and national criminal history record check. The~~  
25 ~~board may use the information obtained from the fingerprinting and crim-~~  
26 ~~inal history record check for purposes of verifying the identification of~~  
27 ~~the person and in the official determination of the qualifications and fit-~~  
28 ~~ness of the person to be issued a registration or to maintain a registration~~  
29 ~~under this act.~~

30 ~~—(b) Disclosure or use of any information received by the board or of~~  
31 ~~any record containing information obtained pursuant to subsection (a) for~~  
32 ~~any purpose other than that provided by subsection (a) is a class A non-~~  
33 ~~person misdemeanor and shall constitute grounds for removal from office,~~  
34 ~~termination of employment or denial, revocation or suspension of any~~  
35 ~~registration issued under this act. Nothing in this section shall be con-~~  
36 ~~strued to make unlawful the disclosure of any information obtained pur-~~  
37 ~~suant to subsection (a) by the board in a hearing pursuant to this act.~~

38 ~~—(c) All costs associated with obtaining a fingerprint record shall be~~  
39 ~~the responsibility of the applicant or registrant and are to be paid directly~~  
40 ~~to the board approved contractor providing the fingerprinting services.~~  
41 ~~The costs associated with obtaining a background or criminal history rec-~~  
42 ~~ord shall be paid to the board and shall be the responsibility of the ap-~~  
43 ~~plicant or registrant and shall not exceed \$75.~~

Senate Commerce Committee

*Date: March 13, 2009*

Attachment /

1 Sec. ~~2~~ 1. K.S.A. 2008 Supp. 58-4502 is hereby amended to read as  
2 follows: 58-4502. As used in this ~~section~~ act:

3 (a) (1) "Home inspection" means a non-invasive limited visual ex-  
4 amination of a residential dwelling of not more than four attached units,  
5 or any portion thereof designed to identify material defects at the time  
6 of the inspection of three or more of the following readily accessible  
7 systems and components:

- 8 (A) Heating systems;
- 9 (B) cooling systems;
- 10 (C) electrical systems;
- 11 (D) plumbing systems;
- 12 (E) structural components;
- 13 (F) foundations;
- 14 (G) roof coverings;
- 15 (H) exterior and interior components; and
- 16 (I) any other components and systems that are part of the residential  
17 dwelling and included in the standards of practice followed by the home  
18 inspector.

19 (2) The term "home inspection" also includes any consultation re-  
20 garding the property that is represented to be a home inspection or that  
21 is described by any similar term.

22 (3) The term "home inspection" does not include:

- 23 (A) A compliance inspection for any code or governmental regulation;
- 24 (B) an examination for the conditions and operation of kitchen-type  
25 appliances, on-site water supplies or wells, private waste systems, the  
26 determination of the presence of wood-destroying organisms or pests, or  
27 the presence of fungi, mold, bacteria, asbestos, lead-based paint, gases or  
28 conditions of air quality; and
- 29 (C) an examination and evaluation of only two or less of the compo-  
30 nents listed in section (a)(1).

31 (b) "Home inspector" means an individual who performs a home in-  
32 spection as defined by this act.

33 (c) "Home inspection report" means a written report on the results  
34 of a home inspection which is issued for a home inspection. The report  
35 shall include the following:

- 36 (1) A clear identification and description of those systems, structures  
37 or components which were inspected;
- 38 (2) a clear identification and description of those systems, structures  
39 or components designated to be inspected under the standards of practice  
40 approved by the board and which were not inspected, and the reason why  
41 they were not inspected;
- 42 (3) a clear identification and description of any material defects found  
43 to be in need of repair, including any recommendations for further eval-



1 uation; and

2 (4) a completed pre-inspection agreement.

3 (d) "Pre-inspection agreement" means a written contract between a  
4 customer and a home inspector to do a home inspection.

5 (e) "Pre-inspection notice" means a document which shall be pro-  
6 vided to a customer prior to the start of the home inspection. The pre-  
7 inspection notice shall contain, at a minimum, the following information:

8 (1) A clear description of the scope of the home inspection;

9 (2) a clear description of any limitations on the liability of the home  
10 inspector for any errors and omissions which may arise during the home  
11 inspection; and

12 ~~(3) an identification of the national home inspection organizations~~  
13 ~~approved by the board which the home inspector is a member of at the~~  
14 ~~time of the home inspection; and~~

15 ~~(4) an identification of the standards of practice approved by the~~  
16 ~~board which the home inspector will be following during the home~~  
17 ~~inspection.~~

18 (f) "Readily accessible" means available for visual inspection without  
19 requiring the moving of personal property, dismantling, destructive meas-  
20 ures or actions that would likely involve risk to persons or property.

21 (g) "Dismantling" means ~~to take apart or remove any component,~~  
22 ~~device or piece of equipment that is bolted, screwed or fastened by any~~  
23 ~~other means and that would not be taken apart or removed by a hom-~~  
24 ~~owner in the course of normal and routine household maintenance.~~

25 ~~(h) "Material defect" means any condition that significantly affects~~  
26 ~~the value, habitability or safety of the dwelling. Style, cosmetic defects or~~  
27 ~~aesthetics shall not be considered in determining whether a system, struc-~~  
28 ~~ture or component is materially defective.~~

29 ~~(i) "Board" means the Kansas home inspectors registration board.~~

30 ~~(j) (h) "Registrant" means any person registered as a home inspector~~  
31 ~~under this act.~~

32 ~~(k) (i) "Applicant" means any person who is applying for registration~~  
33 ~~or renewal of registration under this act.~~

34 Sec. 3-2. K.S.A. 2008 Supp. 58-4503 is hereby amended to read as  
35 follows: 58-4503. (a) There is hereby established the Kansas home in-  
36 spectors registration board. The purpose of the board is to administer  
37 and enforce the provisions of this act, promote consumer protection, en-  
38 sure professional competency and ensure the presence of a viable home  
39 inspection industry in this state.

40 (b) The board shall consist of five members to be appointed by the  
41 governor as follows:

42 (1) Three members shall be home inspectors who have actively been  
43 engaged in the practice of home inspections for at least five years im-

(h) "Material defect" means any condition that significantly affects the value, habitability or safety of the dwelling and the cost of repairing such material defect equals 1% of the sales price or \$2,000 whichever is greater. Style, cosmetic defects or aesthetics shall not be considered in determining whether a system, structure or component is materially defective.

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1 mediately preceding their appointment and have completed at least 1,000  
2 fee-paid home inspections; and

3 (2) two members shall be at-large members neither of whom shall be  
4 a home inspector.

5 (c) Prior to September 1, 2008, the governor shall appoint the initial  
6 board members as specified in subsection (b). The board shall hold its  
7 first meeting prior to January 1, 2009. Following the first meeting of the  
8 board, the newly elected chairperson shall serve for a term of three years,  
9 the vice-chairperson shall serve for a term of three years, the secretary  
10 shall serve for a term of two years and the remaining board members  
11 shall serve for a term of one year. After these initial terms have been  
12 completed, the board members shall serve terms as specified in subsec-  
13 tion (d).

14 (d) Board members shall serve three-year terms, with no board mem-  
15 ber serving more than two consecutive terms of office. Upon the expi-  
16 ration of the term of office of any member, the governor shall appoint a  
17 successor meeting the qualifications under this act. Each board member  
18 shall serve until a successor is appointed and qualified. There shall be at  
19 all times at least one board member from each congressional district in  
20 the state of Kansas.

21 (e) In the event of a vacancy in the membership of the board for any  
22 reason other than expiration of a board member's term of office, the  
23 governor shall appoint a successor meeting the qualifications of this act  
24 to fill the unexpired term.

25 (f) At the first board meeting each year, the board shall elect from  
26 its membership the following officers: Chairperson, vice-chairperson and  
27 secretary. The officers shall serve 12-month terms. A person may serve a  
28 maximum of two consecutive terms as an officer in each respective po-  
29 sition. ~~The chairperson must be a registered home inspector.~~ The  
30 officers shall have the following duties:

Both the chairperson and the vice-chairperson shall

31 (1) The chairperson shall preside over all meetings.

32 (2) The vice-chairperson shall preside over meetings in the absence  
33 of the chairperson.

34 (3) The secretary shall be responsible for:

35 (A) Preparation, publication and maintenance of the minutes of the  
36 board meetings;

37 (B) preparation of correspondence and conduct of administrative  
38 support as the chairperson may direct or as may be prescribed in the rules  
39 and regulations of the board;

40 (C) maintaining the ~~permanent~~ records of the board. ~~The secretary~~  
41 ~~of state shall be the custodian of all permanent records of the board.~~

42 (g) Upon determining that adequate resources are available, the  
43 board may appoint an executive secretary who shall be in the unclassified

1 service of the Kansas civil service act. The executive secretary shall receive  
2 an annual salary which shall be fixed by the board and approved by the  
3 ~~state finance council~~ *governor*.

4 (h) The board may employ such other employees as may be neces-  
5 sary, ~~fix salaries of all its employees who shall be in the classified service~~  
6 *under the Kansas civil service act*, and make such other expenditures as  
7 are necessary to properly carry out the provisions of this act.

8 (i) Each board member shall be paid compensation, subsistence al-  
9 lowances, mileage and other expenses as provided in K.S.A. 75-3223, and  
10 amendments thereto.

11 (j) The board shall hold meetings in such places as it shall determine  
12 and at such times as it may designate or on request of two or more of its  
13 members. A majority of the members of the board shall constitute a  
14 quorum.

15 (k) Applications for original registration and renewal of registration  
16 shall be made in writing or by electronic filing to the board on forms  
17 approved by the board and shall be accompanied by the appropriate fees  
18 prescribed by the board.

19 Sec. 4. 3. K.S.A. 2008 Supp. 58-4504 is hereby amended to read as  
20 follows: 58-4504. The board shall have the following duties and powers:

21 (a) Administer and enforce the provisions of this act;

22 (b) approve and adopt the ~~a~~ **standards** ~~of practice of nationally-rec-~~  
23 ~~ognized home inspection associations which meet the requirements of~~  
24 ~~this act and a code of ethics;~~

} standard

25 (c) register qualified applicants as home inspectors pursuant to this  
26 act;

27 (d) ~~suspend, revoke or fail to renew the registration of a home in-~~  
28 ~~spector under this act;~~

29 ~~(e) make all necessary investigations into the qualifications of or al-~~  
30 ~~legations of misconduct against an applicant and registrant. In connection~~  
31 ~~with any investigation by the board or its duly authorized agents or em-~~  
32 ~~ployees shall at all reasonable times have access to and the right to examine~~  
33 ~~and copy any document, report, record or other physical evidence of any~~  
34 ~~registered home inspector being investigated or any document, report,~~  
35 ~~record or other evidence maintained by and in the possession of any reg-~~  
36 ~~istered home inspector;~~

37 (e) *require, at the discretion of the board, the attendance and testi-*  
38 *mony of any registered home inspector or the production for examination*  
39 *or copying documents or any other physical evidence if such evidence*  
40 *relates to qualifications for registration or allegation of misconduct of an*  
41 *applicant or registrant;*

42 (f) approve examinations to determine the qualifications of applicants  
43 for registration; and

1 (g) adopt all rules and regulations which are necessary to carry out  
2 the provisions of this act ;

3 (h) approve courses of study, educational providers and providers of  
4 continuing education and continuing education courses meeting stan-  
5 dards for approval established by rules and regulations of the board; and

6 (i) contract with agencies or consultants as necessary to assist the  
7 board in obtaining information about educational providers.

8 Sec. 5: 4. K.S.A. 2008 Supp. 58-4505 is hereby amended to read as  
9 follows: 58-4505. (a) ~~The~~ board may deny, suspend or revoke a registra-

10 tion, or may impose probationary conditions on a registrant or applicant  
11 if the registrant or applicant has engaged in any of the following conduct:

12 (1) Making a materially false or fraudulent statement in an application  
13 for registration or renewal;

14 (2) been convicted of or plead guilty or nolo contendere in a court of  
15 competent jurisdiction to ~~forgery, fraud, conspiracy to defraud or any~~  
16 ~~similar offenses or offenses~~ any misdemeanor involving dishonesty ~~or to~~  
17 ~~any felony~~ ~~The board shall revoke a registration following the conviction~~  
18 ~~of a felony unless the board determines the registrant will not pose a threat~~  
19 ~~to the public in the capacity as a home inspector and that such registrant~~  
20 ~~has been sufficiently rehabilitated to warrant public trust. In the case of~~  
21 ~~a person who has been convicted of a felony and who applies for an~~  
22 ~~original registration, or to reinstate a revoked registration, the application~~  
23 ~~shall be denied unless the board determines that the applicant will not~~  
24 ~~pose a threat to the public as a home inspector and that the applicant has~~  
25 ~~been sufficiently rehabilitated to warrant public trust;~~

26 (3) intentionally falsifying a home inspection report;

27 (4) ~~failing to perform a home inspection in accordance with the stan-~~  
28 ~~dards of practice approved by the board and followed by the home in-~~  
29 ~~spector, and or with the degree of care that a reasonable prudent home~~  
30 ~~inspector would exercise under the circumstances;~~

31 ~~(5) performing any of the following acts as part of the home~~  
32 ~~inspection:~~

33 (A) Inspecting for a fee any property in which the home inspector  
34 has any personal or financial interest unless the interest is disclosed in  
35 writing to the client before the home inspection is performed and the client  
36 signs an acknowledgment of receipt of the disclosure;

37 (B) offering or delivering any commission, referral fee or kickback for  
38 the referral of any business to the home inspector; and

39 (C) accepting an engagement to perform a home inspection or to pre-  
40 pare a home inspection report in which the employment itself or the fee  
41 payable for the inspection is contingent upon the conclusions in the home  
42 inspection report, pre-established or prescribed findings or the closing of  
43 the underlying real estate transaction;

Except as provided subsections (b) and (c), the

1 (6) (5) including as a term or condition in an agreement to conduct  
2 a home inspection any provision that disclaims the liability of the home  
3 inspector for any errors and omissions which may arise during a home  
4 inspection or to limit the amount of damage for liability for any errors  
5 and omissions which may arise during a home inspection to less than  
6 \$10,000 in the aggregate for each home inspection;

registered

7 (7) (6) failing to provide a client with a pre-inspection notice prior to  
8 the home inspection;

9 (8) (7) failing to substantially follow the approved standards of prac-  
10 tice and code of ethics;

11 (9) (8) failing to respond as requested by the board to any summons  
12 for attendance and testimony or to produce documents or any other phys-  
13 ical evidence during an investigation into the qualifications of or allega-  
14 tions of misconduct of an applicant or registrant; and

15 (5) (10) (9) violating any provision of this act or rules and regulations  
16 promulgated by the board pursuant to this act.

17 (b) In addition to or in lieu of any other administrative, civil or crim-  
18 inal remedy provided by law, the board, in accordance with the Kansas  
19 administrative procedures act and upon a finding that a registrant has  
20 violated a provision of this act or rules and regulations adopted hereunder,  
21 may impose on such registrant a civil fine not to exceed \$500 for each  
22 violation;

See Insert 1 (next page)

23 (c) All proceedings pursuant to this section shall be conducted in ac-  
24 cordance with the provisions of the Kansas administrative procedure act.

25 Sec. 6. 5. K.S.A. 2008 Supp. 58-4506 is hereby amended to read as  
26 follows: 58-4506. (a) The board shall adopt rules and regulations fixing  
27 the amounts of fees provided for by this act, subject to the following: For  
28 an application for an original registration, the amount may not exceed  
29 \$200; and for renewal of registration the amount may not exceed \$200;  
30 for an additional fee for a late renewal an amount not to exceed \$50; for  
31 reinstatement of an expired or revoked registration an amount not to  
32 exceed \$300; and for a duplicate copy of a registration certificate an  
33 amount not to exceed \$25. Other fees may be set in the amount deter-  
34 mined by the board.

35 (b) The board may charge a fee not to exceed \$500 to review an ap-  
36 plication packet submitted for approval by an education provider for pre-  
37 registration courses or a fee not to exceed \$50 to review an application  
38 packet for an education provider for continuing education classes.

39 Sec. 7. 6. K.S.A. 2008 Supp. 58-4509 is hereby amended to read as  
40 follows: 58-4509. (a) On and after July 1, 2009, all individuals performing  
41 home inspections as defined in K.S.A. 2008 Supp. 58-4502, and amend-  
42 ments thereto, in counties with a population of 60,000 or more shall be  
43 required to file a written registration with be registered by the board.

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(b) (1) Except as provided in paragraph (2), the board shall refuse to issue a registration to an applicant or registrant if the applicant or registrant has entered a plea of guilty or nolo contendere to, or has been convicted of:

(A) (i) Any offense that is comparable to any crime which would require the applicant to register as provided in the Kansas offender registration act; or

(ii) any federal, military or other state conviction for an offense that is comparable to any crime under the laws of this state which would require the applicant to register as provided in the Kansas offender registration act; or

(B) (i) Any felony other than a felony under subparagraph (A); or

(ii) any federal, military or other state conviction for an offense that is comparable to any under the laws of this state other than a felony under subparagraph (A).

(2) The board may grant an original registration pursuant to subsection (c) if the applicant's or registrant's application is received at least:

(A) Fifteen years after the date of the applicant's or registrant's discharge from postrelease supervision, completion of any nonprison sanction or suspension of the imposition of the sentence resulting from any plea of guilty or nolo contendere to or conviction of any offense specified in subparagraph (A) of paragraph (1); or

(B) five years after the date of the applicant's discharge from postrelease supervision, completion of any nonprison sanction or suspension of the imposition of the sentence resulting from any plea of guilty or nolo contendere to or conviction of any offense specified in subparagraph (B) of paragraph (1), whichever is applicable.

(3) For the purposes of this subsection, "postrelease supervision" shall have the meaning ascribed to it in K.S.A. 21-4703 and amendments thereto.

(4) For the purposes of this subsection, "nonprison sanction" shall have the meaning ascribed to it in K.S.A. 21-4703, and amendments thereto.

(c) (1) The board may renew or grant an original registration to an applicant or registrant who has entered a plea of guilty or nolo contendere to, or has been convicted of any crime listed in paragraph (1) of subsection (b) if the applicant or registrant presents to the board satisfactory proof that the applicant or registrant now bears a good reputation for honesty, trustworthiness, integrity and competence to transact the business of registered home inspector in such a manner as to safeguard the interest of the public. The burden of proof shall be on the applicator registrant to present such evidence to the board.

(2) In determining whether or not the applicant or registrant presently has a good reputation as required in this subsection, the board shall consider the following additional factors:

(A) The extent and nature of the applicant's or registrant's past criminal activity;

(B) the age of the applicant or registrant at the time of the commission of the crime or crimes;

(C) the amount of time elapsed since the applicant's or registrant's last criminal activity;

(D) the conduct and work activity of the applicant or registrant prior to and following the criminal activity; and

(E) evidence of the applicant's or registrant's rehabilitation or rehabilitative effort; and

(F) all other evidence of the applicant's or registrant's present fitness for a registration.

(d) In addition to or in lieu of any other administrative, civil or criminal remedy provided by law, if the board determines after notice and an opportunity for a hearing in accordance with the Kansas administrative procedures act that a registrant has violated any provision of this act or any rule and regulation adopted hereunder, the board may impose on such registrant a civil fine not to exceed \$500 for each violation.



1 (b) On and after January 1, 2011, all individuals performing home  
2 inspections as defined in K.S.A. 2008 Supp. 58-4502, and amendments  
3 thereto, shall be required to file a written registration with *be registered*  
4 *by* the board.

5 (c) All registrants must:

6 (1) Be at least 18 years of age;

7 (2) have successfully completed high school or its equivalent, unless  
8 such individual is engaged in the practice of performing home inspections  
9 on the effective date of this act;

10 (3) submit proof of current general liability insurance coverage in an  
11 amount of \$100,000 or more;

12 (4) submit proof of financial responsibility by one of the following:

13 (A) A policy of errors and omissions insurance coverage;

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

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

23 (D) the maintenance of a minimum balance of \$10,000 in an escrow  
24 account in a Kansas financial institution as defined in K.S.A. 16-117, and  
25 amendments thereto, provided that the escrow account shall maintain the  
26 minimum balance through the term of the registrant's registration as a  
27 home inspector. The board shall be notified in writing by the financial  
28 institution within 10 days if the amount in the escrow account falls below  
29 the \$10,000 minimum balance. Upon notification, the board shall suspend  
30 such registrant's registration as a home inspector until the escrow account  
31 minimum balance is restored to greater than or equal to \$10,000;

32 (5) ~~submit proof of membership in good standing in one or more~~  
33 ~~nationally recognized society, association or organization that provides for~~  
34 ~~membership of individuals engaged in home inspections as recognized by~~  
35 ~~the board, and~~

36 ~~(6) have successfully completed and passed a proctored written or~~  
37 ~~electronic exam as approved by the board and proctored by a testing~~  
38 ~~organization approved by the board unless the applicant has been ac-~~  
39 ~~tively engaged as a home inspector as defined in K.S.A. 2008 Supp.~~  
40 ~~58-4502, and amendments thereto, and met the requirements of~~  
41 ~~clause (i) or clause (ii) of subparagraph (B) of paragraph 7 of sub-~~  
42 ~~section (c) of this section;~~

43 (7) (6) annually obtained a minimum of 16 hours of continuing ed-

. Each registered home inspector electing to provide the board a surety bond as a condition of registration, shall file with the board a surety bond in the amount of not less than \$10,000 per year. Such bond shall be issued by a corporate surety authorized to do business in this state. The surety bond shall state the effective date and the expiration date. The registered home inspector shall be named as principal. The bond shall be to the state of Kansas and shall be conditioned upon the registered home inspector faithfully performing all contracts entered into and complying with all provisions of this act and acts amendatory thereof and supplemental thereto and following all rules and regulations governing the profession. Regardless of the number of claims made against the bond or the number of years the bond remains in force, the aggregate liability of the surety shall in no event exceed the amount of the bond. The bond may be terminated at any time by the surety upon sending 30 days notice in writing to the principal, the obligee and the board

1-10

(g) 1 ucation by completing courses approved by the board; and  
 2 ~~(8)~~ ~~(7)~~ have satisfied one of the following requirements:  
 3 (A) Have successfully completed and passed a course of study con-  
 4 taining at least 80 hours of classroom and field training offered by an  
 5 educational provider approved by the board; or  
 6 (B) (i) if the individual performs home inspections in counties with  
 7 a population of 60,000 or more, have been actively engaged in the practice  
 8 of conducting home inspections for not fewer than two years prior to the  
 9 effective date of this act and have completed not less than 100 fee-paid  
 10 home inspections; or  
 11 (ii) if the individual does not perform home inspections in counties  
 12 with a population of 60,000 or more, have been actively engaged in the  
 13 practice of conducting home inspections for not fewer than two years  
 14 prior to the effective date of this act and have completed not less than 35  
 15 fee-paid home inspections.

(c) 16 ~~(d)~~ The board, by rules and regulations, shall establish the date for  
 17 renewal of a registration which may be on an annual or biennial basis. A  
 18 registration that is not renewed in a timely manner shall be deemed ex-  
 19 pired and may be renewed within 30 days following the expiration date  
 20 upon completion of a renewal form and payment of a late fee established  
 21 by the board.

(d) 22 ~~(e)~~ The board may grant inactive status to a registrant who meets all  
 23 the requirements for renewal except for completion of continuing educa-  
 24 tion upon written request of the registrant and payment of the inactive  
 25 status fee which shall not exceed \$50. The registration shall become active  
 26 upon approval of the board following completion of all continuing edu-  
 27 cation requirements and payment of the renewal fee. A registrant whose  
 28 registration is inactive shall not conduct home inspections during the time  
 29 the registration is in inactive status.

(e) 30 ~~(f)~~ The board may reinstate a registration that has been expired or  
 31 revoked for more than 30 days but less than 90 days upon application on  
 32 a form provided by the board and payment of a reinstatement fee estab-  
 33 lished by the board. The board may establish standards for reinstatement,  
 34 including a requirement that an applicant whose registration was revoked  
 35 or that has been expired for more than one year successfully complete an  
 36 approved examination.

37 Sec. 8- 7. K.S.A. 2008 Supp. 58-4510 is hereby amended to read as  
 38 follows: 58-4510. This act shall apply to all individuals who conduct home  
 39 inspections for compensation, but shall not apply to the following indi-  
 40 viduals who are specifically exempted from registration under this act:

41 (a) A tradesman or contractor performing a single component or sys-  
 42 tem evaluation or a combination of any two systems or components listed  
 43 in K.S.A. 2008 Supp. 58-4502 (a)(1)(A)-(I), while acting within the scope

(7) shall retain a copy of each of the following documents  
 pertaining to each home inspection performed by, or at the  
 direction of, the home inspector for a period of 24  
 consecutive calendar months commencing on the first day  
 of the month in which such document is issued or in which  
 the expiration date of any written agreement for such home  
 inspection occurs, whichever is later:

- (A) The pre-inspection notice;
- (B) the home inspection agreement;
- (C) the home inspection report; and
- (D) any other information prescribed by the board  
 by rule and regulation;

, and amendments thereto,

1 of that occupation;

2 (b) an individual employed by the state or a political subdivision of  
3 the state who, within the scope of such employment and in the discharge  
4 of such public duties, inspects property or buildings for compliance with  
5 requirements safeguarding life, health or property;

6 (c) an individual licensed by the state as an architect while acting  
7 within the scope of that license;

8 (d) an individual licensed by the state as a professional engineer while  
9 acting within the scope of that license;

10 (e) an individual licensed by the state as a real estate appraiser while  
11 acting within the scope of that license;

12 (f) an individual licensed by the state as a real estate broker or sales-  
13 person while acting within the scope of that license;

14 (g) an individual employed as an insurance adjuster while acting  
15 within the scope of that occupation;

16 (h) an individual licensed as a manufactured home manufacturer  
17 while acting within the scope of that license;

18 (i) an individual employed by a manufactured home manufacturer  
19 while acting within the scope of that occupation;

20 (j) a modular home manufacturer or modular home manufacturer's  
21 representative reviewing a residential dwelling built by the manufacturer  
22 for the purpose of evaluating the residential dwelling;

23 (k) an individual licensed as a manufactured home dealer while acting  
24 within the scope of that license;

25 (l) an individual employed as a manufactured home installer while  
26 acting within the scope of that occupation;

27 (m) an individual licensed by the state as an insurance agent while  
28 acting within the scope of that license;

29 (n) a homebuilder or homebuilder's representative reviewing a resi-  
30 dential dwelling built by the homebuilder for the purposes of evaluating  
31 the residential dwelling; and

32 (o) an individual employed *providing services* as a pest exterminator  
33 or chemical applicator while acting within the scope of that occupation  
34 and not providing services which would constitute a home inspection  
35 under this act; and

36 (p) ~~an individual assisting a registrant in the performance of a home~~  
37 ~~inspection if that person does not provide an opinion, evaluation or report~~  
38 ~~to a client regarding any system or component inspected~~ **A person who**  
39 **is not registered as a home inspector, may assist a registered home**  
40 **inspector in the performance of an inspection provided that the**  
41 **person is supervised at the inspection site by a registered home**  
42 **inspector and any home inspection report rendered in connection**  
43 **with the home inspection is reviewed and signed by the registered**

1 home inspector.

2 Sec. 9: 8. K.S.A. 2008 Supp. 58-4511 is hereby amended to read as  
3 follows: 58-4511. (a) It shall be unlawful for an individual to perform a  
4 home inspections inspection as defined in K.S.A. 2008 Supp. 58-4502,  
5 and amendments thereto, without being registered under this act if such  
6 individual is required to register with the board pursuant to K.S.A. 2008  
7 Supp. 58-4500, and amendments thereto or to knowingly engage or hire  
8 an individual who is not registered under this act to conduct a home  
9 inspection.

10 (b) Violation of this section is a class A nonperson misdemeanor.

11 Sec. 10: 9. K.S.A. 2008 Supp. 58-4512 is hereby amended to read as  
12 follows: 58-4512. (a) It is the duty of all home inspectors registered under  
13 this act to conduct home inspections with the degree of care that a rea-  
14 sonably prudent home inspector would exercise under the circumstances.

15 (b) All home inspections shall be conducted according to ~~standards~~  
16 of practice and a code of ethics approved by the board.

a standard

17 (c) No home inspector may include, as a term or condition in an  
18 agreement to conduct a home inspection, any provision that disclaims the  
19 liability for any errors and omissions which may arise during a home  
20 inspection, or limit the amount of damages for liability for any errors and  
21 omissions which may arise during a home inspection to less than \$10,000  
22 in the aggregate for each home inspection and such term or condition or  
23 limitation setting the liability at an amount greater than \$10,000 must be  
24 provided to the customer in writing to be in effect.

registered

25 (d) An action to recover damages for any act or omission of a home  
26 inspector relating to a home inspection or home inspection report must  
27 be brought not more than 12 months from the date the home inspection  
28 was performed and may be initiated only by a party to the real estate  
29 transaction the client for which the home inspection was conducted.

registered

30 (e) In any action to recover damages for any error or omission of a  
31 home inspector relating to a home inspection or home inspection report,  
32 a home inspector is liable for any errors and omissions which may arise  
33 during a home inspection in an amount of not to exceed ~~\$10,000~~ in the  
34 aggregate for each home inspection, or to the amount in the pre-inspec-  
35 tion agreement to conduct a home inspection, if greater than ~~\$10,000~~ in  
36 the aggregate for each home inspection, provided that a home inspector  
37 provides the customer with a clear written description in the pre-inspec-  
38 tion agreement of any greater limitations on the liability of the home  
39 inspector for any errors and omissions which may arise during the home  
40 inspection.

registered

registered

\$2,000

\$2,000

registered

registered

41 (f) All home inspectors registered under this act shall provide cus-  
42 tomers and clients with a completed written pre-inspection notice prior  
43 to the home inspection.

Insert Section 10 attached (KSA 2008 Supp. 58-4501) and renumber the remaining sections accordingly.

Sec. 10. K.S.A. 2008 Supp. 58-4501 is  
by amended to read as follows: 58-4501.  
This act shall be cited as the Kansas home  
inspectors professional competence and  
financial responsibility act. \_\_\_\_\_



(b) The provisions of this act shall expire on July 1,  
2013.

41-1

11

1 Sec. ~~11~~ <sup>[10]</sup> K.S.A. 2008 Supp. ~~58-4502, 58-4503, 58-4504, 58-4505,~~  
2 ~~58-4506, 58-4509, 58-4510, 58-4511, 58-4512 and 58-4513~~ are hereby  
3 repealed.

[ 58-4501,

12

4 Sec. ~~12~~ <sup>[11]</sup> This act shall take effect and be in force from and after  
5 its publication in the statute book.





**Property Inspection Services Inc**

**P.O. Box 3342**

**Olathe, KS. 66063**

**913-219-2062**

**www.metrospeckc.com**

I am Gary Farnsworth, owner, Metro-Spec Property Inspection Services Inc of Olathe, KS. I have been an inspector since 2001, and have performed almost 3,000 home inspections. I first want to apologize if I get a little out of line here, but I am as frustrated as most of you are. You have more pressing issues to deal with than this. I am currently close to not making my house payment; the savings of me and several other inspectors is depleted. I myself have applied for several other jobs out of this industry to find personal income due to the current economy. I am here to try to save my business.

These laws have been worked on for many years, have been revised who knows how many times, and yet here we are again, with a new HB 2260, that in it self has already been revised and rewritten just in the past few days. So much so, that I believe that we need to just start over. Special interest groups and lobbyists are doing a good job trying to push these laws to favor the realtors and the home inspection board, all who want full, absolute control of the home inspection industry here in Kansas. The KAR and their special interest groups and lobbyists all want these laws so the realtors can complete real estate deals, sell "as is" homes full of defects to unsuspecting Kansas home buyers, and make their commissions and bonuses. This is all about making money, and only to the real estate agents, real estate companies and office brokers. The home inspection board will have absolute control to decide every facet of the home inspection industry. The KAR and Mr. Barnes are asking you for the power to charge home inspectors of Kansas higher registration fees, pay for unneeded educational requirements, pay for travel to and from educational sites, pay for other fees as "required" and pay high insurance premiums. Mr. Parham's letter of March 8 stated that he does not want to, quote, "put additional financial burden upon our rural members" unquote. Is he talking about real estate agents or home inspectors? It sounds like to me the KAR already has the control of home inspectors.

Understand that thousands of home builders, lenders, contractors, home maintenance repairmen, engineers, electricians, roofers, carpenters, masons, painters, drywall installers, flooring contractors, moving companies, cable/telephone installers, and plumbers all do not have to pay registration fees, insurance requirements, educational classes, all of which cannot be affordable to the only 200 home inspectors in Kansas. We are only in the home for three hours. These other thousands of individuals are at the home for longer periods of time should then, also be registered, pay fees, and have insurance. For example: landscape architects are licensed; landscape workers are not. A home inspector will be licensed, but his "assistant" will not be. A real estate agent under the laws of the bill can, and will be, performing home inspections and can be an inspectors quote "assistant" unquote.

I am a member of the Better Business Bureau. Wouldn't that be enough? It is for tens of thousands of other small businesses. If a home inspection is not required by the home buyer in the State of Kansas per a real estate transaction, then why would the State of Kansas initiate such requirements, rules and regulations on home inspection companies? Again, a home inspection is optional to the home buyer. It is not required. Perhaps it should be, along with termite inspections and radon tests.

Senate Commerce Committee  
*Date: March 13, 2009*

Attachment 2

I move to strike Sec. 8, the section which exempts certain individuals. You want to be a home inspector? Attend our training classes, pay the fees, and get the insurance. Everyone who performs home inspections should be registered, period. No exceptions. Make it a requirement to disclose that you are an engineer and/or licensed in other fields. Engineers should not be ashamed to get registered. It can only help them advertise as both a registered inspector and a licensed engineer. Missouri realtors are already taking classes and taking tests to be home inspectors. Their laws will be like yours. You must eliminate Sec. 8, or I am out of business. Engineers, insurance agents, appraisers and realtors will be taking over the home inspection industry. This is not ethical.

Mr. Barnes says that the board will be self-funded. No way can this happen. Home inspectors in only 8 out of 105 counties are required, by the new Kansas laws, to be registered by July 1, 2009. That is only about 70 to 90 home inspectors at the most. That is only \$18,000 in annual income to the board, all to pay for the board member expenses, secretaries, attorney fees, record keeping, offices, paperwork, and from the new laws I quote "any other employees as may be necessary" unquote; page 5, line 4. The state of Kansas will have to absorb these extra expenses, since the state will be the one who puts these home inspector rules and regulations into play. And, I believe half of the revenue will have to be put into reserve. Cut educational funding to schools, and give the home inspection board money? What would the people of Kansas say to that?

I know all about budgets and corporate board meetings, since I am a former manager of a top fortune 75 company, and was in charge of multi-million dollar budgets. If this were a board meeting, these laws would be thrown in the trash, and the ones who presented them would have been shown the door.

Home inspection boards do get sued. The Texas Real Estate Commission, TREC, which controls the home inspection industry in Texas, has to deal with daily threat of lawsuits. Look at the copies of minutes from a recent TREC board meeting. They paid out thousands of dollars in fees to attorneys and settlements for only two lawsuits, and they are dealing with several others. The State of Texas is paying millions of dollars yearly to keep up with their home inspection laws, rules, and regulations. They are getting sued, because they set the laws. Your attorneys here Kansas cannot wait for these Kansas laws to pass, so they can collect revenue from the lawsuits these laws will create.

Where will home inspection board office be? Who/how will be the records stored? Who is the boss of Mr. Barnes? Why do these people want these laws so bad? What do they have to gain? Where are the consumer complaints? Why does the board want \$18,000 a year so bad? Will my registration forms and personal information be kept private, on someone else's computer or a state computer? Why do you think that other Kansas organizations want nothing to do with home inspectors? Perhaps delay the implementation of these laws until 2011. By then maybe the state and the board may have the funds to pay for the board and its budget, if one ever gets created, more inspectors can then register, inspectors will have time to change inspection forms, get needed educational credits, hope for more inspection business, and finally perhaps have the bill language up to date to actually protect Kansas consumers, and not the real estate agents, companies, and brokers. New board members should then be appointed, from all different national agencies and backgrounds, and perhaps appoint a common Kansas home buyer, and not realtors. Are there home inspectors on real estate boards?



Will home inspection laws be reciprocating between Kansas and Missouri? Nebraska? Oklahoma? Will there be extra expenses to me having to be registered in both Kansas and Missouri? Will Missouri inspectors inspecting in Kansas charge lower fees, when they do not have to be registered in Kansas, since they live in Missouri? Will inspectors have to be licensed in two states, pay two fees, two education programs, etc?

I perform one third of my inspections in Miami county Kansas. Will I still have to be registered to perform home inspections in that low populous county because I reside in Johnson County, a high populous county? I may have to charge higher prices and the inspector residing in Miami County can charge lower prices, because he is yet to be registered and will not have to pay insurance under any home inspection laws. This an unfair competition issue.

There are, and will be, thousands of foreclosed Kansas homes on the market. These homes will be selling in as is condition. Realtors can, and will, be suggesting to buyers of these homes that they can save money by not getting a home inspection, since the home is being sold in as is condition anyway. This is simply buyer beware. When the home buyers of Kansas hear this phrase, a home inspection should be required. Foreclosure and "as is" homes have more issues and defects than other homes. This is just another reason why the realtors and KAR want home inspector licensing, so inspections will be basic in scope, and not alarm the home buyer. The home will then sell so the realtors can make their commissions, bonuses, and income. Banks give incentives to realtors who sell bank owned homes. Home buyers may then be faced with a home that may not even be livable.

Do you know the differences in state definitions of registration, licensing, and certification? State laws are specific in these terms. I hope you use the right ones.

I sent out a letter to all Kansas lawmakers in January of this year. Some copies are here for you. This letter is all true. This is just one example of real estate agents marketing homes with many defects that are not often listed on home seller disclosure forms. When I perform a home inspection, rarely do I refer to the sales disclosure. It is rarely correct. I work for the consumer. Not the realtor, lender, seller, or any home inspection association.

Please consider eliminating these unnecessary home inspection laws. These laws will not protect the consumer; only move the liability from the realtor and seller to the home inspector and then on to the state of Kansas. This is what the KAR and the special interest groups want. Your names will be on this bill. Send it back to Mr. Brunk, who is himself a real estate agent. Say no. Please, let us, the home inspectors of the state of Kansas, continue to protect the consumer and future home buyers of the State of Kansas.

Gary Farnsworth  
Olathe, KS

GF  
3-11-09

**AGENDA FOR TEXAS REAL ESTATE COMMISSION (TREC) MEETING**  
Conference Room 235, TREC Headquarters Office  
1101 Camino La Costa, Austin, Texas  
December 15, 2008, at 11:00 a.m.

**CALL TO ORDER**

1. Call to order and pledges of allegiance
  - **Done at 11:00 am**

**MINUTES**

2. Approval of minutes of October 27, 2008, Commission meeting
3. Discussion and possible action to excuse commissioner absence(s), if any
  - **Done**

**STAFF AND COMMITTEE REPORTS**

4. Reports by Administrator, Assistant Administrator, and Division Directors which may include reports of monthly activities and statistical data for licensing, education, enforcement, technology usage, recovery trust account and fund activity, and updates on new and ongoing agency activity; questions by Commissioners to Division Directors regarding issues raised by the monthly activities reports; discussion of current topics raised by monthly reports; request by the Commission for additional information or reports from staff; and introduction of new employees
5. Supplemental report from Commissioner Wukasch on ARELLO Annual Conference.
  - **Commissioner Wukasch described attending the ARELLO conference in November**
  - **Much attention was being paid to Mortgage Fraud issues**
  - **New attention will likely focus on "foreclosure assistance" fraud**

**PUBLIC COMMENTS**

6. General comments from visitors
  - **None**

**EXECUTIVE SESSION**

7. Executive session to discuss pending litigation pursuant to Texas Government Code §551.071 and, if necessary, to receive legal advice from counsel on posted agenda items
  - **30 minute break**

3-9-09  
JH



## **ACTION ON MATTERS FROM EXECUTIVE SESSION**

8. Discussion and possible action to authorize settlement of recovery fund claims or take other action on items considered in executive session

- **Approved one Real Estate settlement (not inspection related) for \$5,717 actual damages + \$17,776 attorney fees**
- **Approved another for settlement (not inspection related) for \$6,000 actual + \$25,857 attorney fees**

## **RULES FOR POSSIBLE PROPOSAL**

9. Discussion and possible action to propose amendments to 22 TAC §535.64 concerning Accreditation of Schools and Approval of Courses and Instructors

- **Misc administrative changes approved**

## **RULES FOR POSSIBLE ADOPTION**

10. Discussion and possible action to adopt new:

- 22 TAC §537.51 concerning Addendum for Reservation of Oil, Gas, and Other Minerals
- 22 TAC §537.52 concerning Short Sale Addendum

11. Discussion and possible action to adopt amendments to:

- 22 TAC §534.2 concerning Processing Fees for Dishonored Payments
- 22 TAC §535.51 concerning General Requirements
- 22 TAC §535.52 concerning Individuals
- 22 TAC §535.400 concerning Registration of Easement or Right-of-Way Agents
- 22 TAC §541.1 concerning Criminal Offense Guidelines

12. Discussion and possible action to renew for an additional 60-day period emergency rules concerning:

- 22 TAC §535.51 concerning application requirements for salespersons, brokers, and easement and right-of-way registrants in such counties
- 22 TAC §535.95 concerning license or registration renewal requirements for salespersons, brokers, and easement and right-of-way registrants in such counties
- 22 TAC §535.208 concerning application requirements for apprentice, real estate, and professional home inspectors in such counties
- 22 TAC §535.216 concerning license renewals requirements for apprentice, real estate, and professional home inspectors in such counties

- **All of the above were approved**

**PENDING BUSINESS**

13. Discussion and possible action to approve staff recommendation for TREC licensing and information system vendor and update on Request for Offers for TREC's licensing and information system

14. Legislative update

15. Discussion and possible action regarding any changes to the Legislative Appropriations Request pursuant to October 13, 2008, letter from Governor Rick Perry

16. Discussion and possible action regarding the effective date of the home inspector Standards of Practice and Standard Inspection Report Form

- **Larry Foster, the Inspector Advisory Committee (IAC) Chairman, explained that the IAC recommended allowing inspectors to voluntarily start using the new SOP and form now and still become mandatory on Feb 1, 2009.**
- **Commissioner Leal explained to Larry why TREC could not allow that due to rules & laws in place.**
- **Further discussion amongst the Commissioners and Legal Counsel resulted in the Commission overriding Commissioner Leal's argument and approved Larry's proposal.**
- **It is my understanding that what TREC approved results in inspectors may now start using the new SOP and, if they do, then they must use the new form REI 7A-1.**



## **NEW BUSINESS**

17. Staff report and discussion of test and updating of Business Continuity Plan

18. Discussion and possible action regarding whether a Texas Real Estate Inspector Committee Member may teach a course acceptable for core or continuing education credit

- **Larry Foster and TREC Administrator Tim Irvine explained that there were not enough instructors knowledgeable about the new SOP to meet the training needs and that it is in the best interest of the public to allow IAC members to teach and profit from providing new SOP training.**
- **Administrator Irvine also pointed out that the IAC is an advisory body and, as such, members are not considered employees or agents of the state therefore they do not fall under any state ethics or other rules.**
- **On a side note Commissioner Arriaga questioned what the difference between Apprentice, Real Estate and Professional Real Estate Inspectors was and why the initial pass rate of Professional Inspectors was so low.**
- **Devon Bijansky and Larry Foster explained the different inspector levels and Larry pointed out that Apprentice & Real Estate Inspectors have the benefit of being under the supervision and direction of a Professional Inspector for some period of time prior to taking the Professional inspector licensing exam and that 'tutoring' resulted in improved knowledge and exam scores.**
- **The Commission approved the motion that IAC members could also teach inspector courses.**

19. Consideration of and possible action regarding any issues to be addressed by the Texas Real Estate Inspector Committee for 2009

- **Larry described 2009 IAC work to include:**
  - **Education issues**
  - **Interagency interfacing with TRCC to coordinate requirements, training, enforcement, etc**
- **3 – 4 IAC meetings predicted for 2009**
- **First 2009 IAC meeting set for Feb 13<sup>th</sup>.**

20. Discussion and possible action to approve recovery trust account and recovery fund investment policies under the Public Funds Investment Act
21. Discussion and possible action to appoint Interim Administrator
- **TREC Administrator Tim Irvine leaving 12/31/08 for another position elsewhere**
  - **General Counsel Loretta Dehay was offered the position if Interim Administrator and she accepted that nomination & was approved.**
22. Discussion and possible action regarding the job description, job posting, selection criteria and selection process for the TREC administrator position including the possible appointment of an administrator selection committee
- **Three potential candidates were offered up by the TREC Chairman but I left prior to hearing the names.**

#### **CONTESTED CASES**

29. Consideration and possible action regarding Proposals for Decision from State Office of Administrative Hearings:

- (a) SOAH Docket No. 329-08-3518, in the matter of Joe M. Casillas,
- (b) SOAH Docket No. 329-08-3803, in the matter of Anthony Brian Chin, and
- (c) SOAH Docket No. 329-08-3802, in the matter of Jose R. Sanchez

#### **FUTURE MEETINGS**

30. Schedule future meetings and adjourn