

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Chairman Don Dahl at 9:00 A.M. on February 16, 2006 in Room 241-N of the Capitol.

All members were present except:
Ty Masterson- excused

Committee staff present:
Jerry Ann Donaldson, Kansas Legislative Research Department
Norm Furse, Office of Revisor of Statutes
Rena Jefferies, Office of Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee:
Tom Whitaker, Kansas Motor Carriers Assn.
Bill Yanek, Kansas Association of Realtors
Jeff Wells, Vice President, Kansas Pest Control Association
George Barbee, Kansas State Board of Technical Professionals
Jeff Barnes, President, Kansas Association of Real Estate Inspectors
Kerry Parham, Midwest Pro-ASHI Chapter
Randy Sipe, President, Great Plains Chapter, American Society of Home Inspectors
Michael Greenwalt, MGI Home Inspection LLC
Ron Gaches, Kansas Society of Professional Engineers of Kansas and American Council of Engineering Companies

Others attending:
See attached list.

The Chairman opened the hearing on **HB 2772 - Employment relationship between owner-operators and licensed motor carrier operators for employment security law purposes.**

Staff briefed the committee on **HB 2772**. This is an act concerning employment security law.

Tom Whitaker, Executive Director, Kansas Motors Carriers Association, testified as a proponent to **HB 2772**. **HB 2772** does not change the factors used to determine whether an owner/operator is an independent contractor or employee. This merely removes any doubt that required compliance with federal and state safety rules shall not enter into the determination of an owner/operator's status (Attachment 1).

There was no opposition to **HB 2772**.

The Chairman closed the hearing on **HB 2772**.

The Chairman opened the hearing on **HB 2807 - Home inspectors registration and certification, errors and omissions insurance.**

Bill Yanek, Kansas Association of Realtors (KAR), Director of Government Relations, testified as a proponent to **HB 2807**. The bill requires the registration of all home inspectors with the State of Kansas. Second, the bill mandates, over a period of years that home inspectors become certified by a recognized organization of home inspectors. This certification is not limited to a single certification source, but allows the flexibility for home inspectors to choose their certification route.

HB 2807 also mandates errors and omissions insurance for all home inspectors. KAR strongly believes that some type of home inspection liability protection, whether that takes the form of insurance or not, is essential to protecting the public (Attachment 2).

Jeff Wells, Vice President, Kansas Pest Control Association, testified as an opponent to **HB 2807**. The genre of inspections that the Kansas Pest Control provides differs greatly from that of a standard home inspection.

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Pest management professionals perform these inspections as a stand-alone service and do not, as a rule, offer inspections dealing with any other structural components in conjunction with the WDI report (Attachment 3).

George Barbee, Public Member of the Kansas State Board of Technical Professions, appeared as an opponent to **HB 2807**. It is felt it is not appropriate to place their registration under the Kansas State Board of Technical Professions. Residential dwellings are exempt from licensure under the laws as stated in K.S.A. 74-7031 and 74-7033. The Board of Technical Professions has a statutory responsibility for the licensure of design professionals. These professionals are required, with few exceptions, to graduate with a BS from an accredited curriculum in the appropriate profession (Attachment 4).

Jeff Barnes, President, Kansas Association of Real Estate Inspectors, Wichita, Kansas, testified as an opponent to **HB 2807**. This bill does not, despite its best intentions, address the main issue plaguing the industry which is a lack of minimum competency requirements. The bill would require inspectors to carry Errors and Omissions insurance. The effect of this would be disastrous for the consumer. There is concern that regulatory control for the industry is under the Board of Technical Professions. This group has little or no idea about what an inspection is or the many complexities of the inspection process.

The Kansas Association of Real Estate Inspectors has been working on language for a bill which addresses the cause of the issues relating to the industry, not the symptoms. The language requires inspectors to inspect to a nationally recognized standard. This gives them the ammunition needed to assure the realtor that the inspection is fair and impartial and allows the needed time to complete the inspection (Attachment 5).

Kerry Parham, President, Midwest Pro-American Society of Home Inspectors (ASHI) Chapter, testified as an opponent, stating **HB 2807** is an inequitable piece of proposed legislation that unfairly requires home inspectors to become the only profession in the state required by statute to carry E&O insurance. This bill would wreck havoc among the home inspection industry. The general public would suffer because the cost of home inspections would likely increase 20% to 45%. Home warranties are available to buyers through their realtors, usually for less than \$400. A homebuyer's greatest protection against choosing an unqualified home inspector is to pick a "full" member of ASHI (Attachment 6).

Randy Sipe, President, Great Plains Chapter (ASHI), testified as an opponent. The bill should protect the public. As written it only starts to outline basic rules that need to take place. We could support a good bill. This bill does not identify qualifications for professional home inspectors, education requirements for inspectors, background checks, or other requirement that should be in effect to protect the consumer. An undefined registration act would only mislead the public into believing that these things were in effect and that they were, indeed protected (Attachment 7).

Michael Greenwalt, owner of MGI Home Inspection, LLC, Milford, Kansas, testified as an opponent to **HB 2807**. Although consideration of this bill is a positive step towards insuring that inspectors meet minimum standards, if this bill were to pass as currently written, it would create many issues and undue consequences (Attachment 8).

Ron Gaches, representing the Kansas Society of Professional Engineers and American Council of Engineering Companies, testified as an opponent to **HB 2807**. Our organizations take no position as to the underlying merits of the bill. However, there are concerns about putting the responsibility for the registration and certification of home inspectors on the Kansas State Board of Technical Professions (Attachment 9).

The Chairman said the Committee would not work the bill due to time constraints before turn around. Hopefully the realtors and inspectors can bring a bill back early next year and it will be addressed then.

The Chairman closed the hearing on **HB 2807**.

The Chairman asked the Committee what their wishes were on **HB 2696 - Workers compensation; administrative law judge, requirements, salary and applications; establishing the workers compensation administrative law judge nominating and review committee.**

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Staff brief the Committee on a balloon amendment to **HB 2696** (Attachment 10).

Representative Grant moved and Representative Roth seconded to adopt the balloon amendment to **HB 2696**.

Representative Roth moved and Representative Grange seconded to move **HB 2696** out as amended. The motion carried.

Representative Kiegerl moved and Representative Humerickhouse seconded a Substitute Motion authorizing Administrative law judges increased sanctions for treatment and benefits.

There was discussion and the Chairman reminded the committee that there was another bill with the same subject of benefits still in Committee.

Representative Kiegerl and Representative Humerickhouse withdrew their Substitute Motion.

The Chairman stated, "back on the original motion". The motion carried to move **HB 2696** out favorably as amended.

The meeting adjourned at 10:50 a.m. The next meeting will be February 17, 2006.