

## Opposition to SB168 - Licensure of Home Inspectors

(February 2019 by Dan Bowers President of the Heartlands Regional Chapter of Home Inspectors)

1. My name is **Dan Bowers** and I am a Building Consultant. I do residential, commercial, environmental and specialty inspections (stucco, mold, expert witness, new construction, etc). I've been involved in construction, real estate, and inspections **for over 40 years**. I grew up in a heavy equipment construction family that built things in Kansas City for developers like 71 Hwy; Ward Pkwy thru the Plaza; State Line; Ward Pkwy Shopping Center and basements all over the city. **At various times over the past 20 years, both my sister-in-law and a niece have been President of the largest Board of Realtors in Kansas. My brother has been President of the Realtors MLS system, and at different times over the past 25 yrs I have been training director and President for both the 2 national home inspection association chapters in Kansas.** I have been on the national Board of Directors of the oldest home inspection association (ASHI) twice.
2. **I also have a unique perspective** being that **one of my degrees is in real estate** and **I was a supervising real estate broker in 3 states for 10 years** and have about 10x more education in real estate than most Kansas RE agents do. My real estate training along with my family's involvement in real estate leadership in Kansas gives me access to facts and information most home inspectors or real estate agents don't have. I'd like to share some of that with you.
3. In about 2000 or 2001 the National Association of Realtors (NAR) **set long range legislative goals** for themselves. One of those goals was getting home inspectors licensed or regulated in EVERY state. Their attorneys felt that if inspectors were licensed and something went wrong in a transaction, the agents were less likely to be brought into a lawsuit ("Oh my, the state gave him/her a license how was I to know they weren't competent"). If they could also get mandatory errors & omissions insurance or similar pushed onto home inspectors, if something did go wrong the realtors liability would shift off themselves, sellers and contractors and onto someone easier to attack .... home inspectors. **In brief licensing home inspectors is NOT & NEVER has been a Kansas thing to protect consumers ... It's a national goal for Realtors to help SHIFT LIABILITY and gain some control over ANOTHER profession.**
4. Even if you have a huge membership and put a lot of votes and lots of \$\$\$ into legislators campaigns, even the Realtors can't just waltz in and say **"We'd like to regulate OR get some control over another profession,"**, so you gotta have a story ... a good story. For Realtors that story is finding a few inspections out of thousands of home sales that had problems, then using the excuse they want ANOTHER profession regulated to help PROTECT the public.
5. The real estate industry in Kansas which we are told has 45,000+ members has worked very hard at getting a licensing Bill pushed onto ANOTHER profession in Kansas (around **170-200 home inspectors**). Davy Crocket was fighting better odds at the Alamo. The real estate agents excuse to use their huge membership and even larger pocketbook to get control over us was to help protect the general public and ensure home buyers / sellers got a knowledgeable inspector ..... **BUT**
6. If the **commissioned real estate sales people** really wanted to protect the public you wonder **WHY you have never seen them push for mandatory state wide building codes for builders, remodelers, flippers** (in Kansas only 20 counties have this); or how about state wide licensing of tradesmen like plumbers, electricians, roofers, HVAC techs, etc ... the people that build, remodel or rehab houses. Sounds a little **FISHY** ..... We've NEVER seen Realtors PUSH for this have you .....
7. **Commissioned house sales people** tell you that **ALL** professions involved in the real estate transaction are state licensed **EXCEPT** home inspectors **A less than half truth.** *Let's see who is NOT state licensed .. chimney inspectors, asbestos inspectors, sewer line inspectors, electricians, mold inspectors, infrared inspectors, home builders, plumbers, HVAC technicians, roofers, remodelers, flippers, etc.* **SO** why the big **PUSH** at home inspectors .... Our findings can cause real estate deals to fall apart BECAUSE we find UNDISCLOSED defects which costs them a commission (\$\$\$\$) AND to help SHIFT liability off agents for something a seller hid OR failed to disclose.
8. The 2009 **Home Inspector License bill** was rescinded by governor **Brownback in 2013** who said **"Upon review of the materials provided by the proponents of this legislation, both in 2008 and 2013, I see little evidence of large numbers of Kansas citizens being economically harmed by home inspectors,"** **Brownback said in a news release announcing his veto.** "In fact, even the proponents believe the vast majority of Kansans who provide this service are honest people. Therefore it appears the legislation passed in 2008 may simply add unnecessary fees and regulations to law abiding citizens."
9. **The reality is, there is no significant difference between licensed or unlicensed inspectors.**

10. The Realtors want to prohibit by law the ability of a home inspector to use any language in a legal contract that allows us to negotiate our liability by time or money with **OUR** clients. This same group and most other professions use limit of liability clauses in their contracts with their clients including doctors, schools, the Realtors themselves, etc. **BUT** we should be **LIMITED** by law on what we can negotiate.
11. One big complaint the Kansas commissioned real estate sales people have with home inspectors is what they call **CONSISTANCY**. Inspectors don't say the same thing. Many Realtors mistakenly believe if inspectors were licensed we'd all say OR think the same way. That's ludicrous ..... Do licensed doctors, appraisers, attorney's or even commissioned real estate sales people think **AND** do the same things? ..... **NO** and neither will inspectors.
12. The home inspection licensing Bill **flopped in Kansas 5 yrs ago** and turned out to be un-needed **AND** *grossly mis-managed* **AND** was association biased so that **ONLY** 1 home inspection association had representation on the Board or was consulted drafting the Bill. It's no different today. When **Governor Brownback DUMPED the Bill** in 2013 there was **\$63,000+/-** in the inspectors account from their annual dues ... **AND** that's considering they had **NO** Board office, staff, investigator, etc **to pay for** .... **Just an answering machine in an accountant's office** out in Topeka. **HOW** do the Realtors think the state of Kansas can afford it now? ***Would \$150,000 or more be NEEDED to run this Board?? I think so!!***
13. **When the 2009 Home Inspectors Registration Bill was rescinded by Governor Brownback in 2013, there** were only approximately **23 home inspectors** in the state **OUTSIDE** of Kansas City, Wichita and the Topeka-Lawrence corridor ... **WHY?** Many of the **Rural Kansas Cities** are **SMALL** with only 5,000-21,000 people. These same towns are often 45 - 75 miles from a town of any larger size; According to National Surveys done by inspector associations - 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. 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 insurances, etc. It also means that under proposed regulatory laws, an inspector from these areas will be prevented from getting a license for varying reasons (such as **how will they be able to get the work experience AND number of inspections and afford to spend a couple of weeks in Kansas City or someplace similar to get the 2 weeks of training needed to get licensed and into the business – rural areas don't have inspection schools.**
14. This Bill is poorly thought out and very poorly written for lots of reasons **AND** will add un-needed costs to home buying in Kansas. One **PRIME EXAMPLE** is that licensed engineers **OR** architects are **EXEMPTED** from being licensed to perform home inspections. In Kansas City alone we have 29 engineers I'm aware of that do home inspections. They have no **SoP** to follow; are **NOT trained in home inspection**; are **NOT** required to have insurance; are **NOT** prohibited from using language that **LIMITS** their liability; **AND** the Kansas laws **EXCLUDE** 1&2 family houses from engineering laws **SO** there is **NO** oversight from their own State Registration Board **OR** licensing law. **AND** there are over 50 engineering degrees like **COMPUTER SOFTWARE ENGINEERING** I'm aware of .... many of which have **NO** training related to houses or their related systems. ***Is that CONSUMER protection??***
15. Consumer protection is available **BUT** many Realtors / Buyers chose cheaper versus better .. See Brochure.
16. I have taught adult education classes on construction defects, inspecting your own house, negotiating problems in a real estate transaction at several local community colleges like **Longview** and **Johnson County Community College**. As well as holding training seminars for home inspectors locally and nationally for over 20 years and have trained well over 1,000 home inspectors entering the profession and I would be happy to discuss this Bill with the Commerce Committee members at their convenience.

Regards,

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