

Ralph Pimentel, Senate Commerce Committee Written Testimony
Submitted February 18, 2019 to the office of Senator Julia Lynn

Commerce Committee chair, Senator Julia Lynn, and senate committee members, thank you for allowing me to appear before this committee. My name is Ralph Pimentel. I am the owner of National Building Consultants, a consulting business that I started in 1987. Real estate inspections have been one of the primary services I have offered over the past thirty-one years. I was one of the first businesses to provide inspections for the real estate industry in the Topeka area. Consequently, I have seen the home inspection industry evolve from a period of time where ninety-five percent of home buyers had not heard of a home inspection to the present where nearly one hundred percent of home buyers include home inspections in their real estate contracts.

I was formerly a building inspector for the City of Topeka and the City of Lawrence and during those ten years, I received multiple certifications from the associations that publish the model building codes adopted by cities across the country. In general, I am a proponent of building regulations that assure the construction of safe, reliable, and sustainable buildings for the public. I have also supported and have been directly involved in the establishing licensing programs for contractors and individuals actively participating in the building industry. I was specifically appointed by the City of Topeka and the City of Lawrence to implement newly adopted building codes and to establish licensing programs for segments of the construction industries such as heating and air conditioning contractors. These cities also created licensing program for journeyman and master technicians. Several thousand contractors and tradesmen received their licenses in these two cities alone. For the most part the licensing programs accomplished their primary goals; to elevate the overall competency of the trade groups and to provide the public with additional safeguards.

Seeing the first hand the direct consumer benefits of building regulation, I was honored to be appointed to the first Home Inspectors Registration Board in 2007. I was the only board member to serve from the board's conception until the statute was allowed to sunset and the board was dissolved in 2013. As the board's last chairman I spoke with staff from Governor Brownback's office regarding the pending sunset clause 2013. At that time it was relayed to me that multiple complaints had been filed against a previous board member and claims of ambivalent consumer protection were major concerns for Governor Brownback. This coupled with the Governor's belief in less government regulation and his confidence in other forms of consumer protection led to the end of the state requirements for home inspectors.

The bill before this committee is virtually the same as the first statute with a few small changes. I would like to provide you with a few suggestions that I have on how to improve upon the outcome should this bill be signed into law.

One of the first problems the board tackled was an apparent exemption granted to engineers and architects that allowed them to perform a home inspection without offering the consumer protection required by the newly adopted law. Having seen almost the exact same language used in numerous other licensing regulations there may have been a general misunderstanding of the intent of the exemption clauses in the state statute. As with all other construction licenses there are a list of tangentially related groups not required to obtain a license. As an example, the City of Topeka provided a similar licensing exemption for architects and engineers. That ordinance allowed an exemption for an engineer or architect doing work covered by the state license, but if an engineer or architect were to be actively involved in contracting or installing a heating and air conditioning system as defined by ordinance, then they were required to obtain a city license. Other states do not exempt engineers or architects when they are performing a home inspection.

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The assistant attorney general who provided legal support for our board also felt that any person performing a home inspection should be required to comply with all of the competency and financial stability provisions. As explained to the board, those home buyers and their real estate agents who contract with an unregistered individual to perform a home inspection, as defined by the statute, have unknowingly forfeited all of the consumer protection afforded under the state law. Unregistered home inspectors would be allowed to conduct home inspections without the required liability insurance, without demonstrating financial solvency, without any liability limitations and most importantly without being vetted for felony convictions. Since the first home inspectors statute was enacted we have no idea how many home buyers have been left without any recourse for errors, omissions, or inaccurate home inspections performed by unregistered individuals.

With regards to any consideration of an exemption for engineers and architects licensed by the state of Kansas, it should be noted that one and two family dwelling from are specifically excluded from the scope of an engineer or architect license. Meaning, none of the provisions of a state engineer or architect license apply to a residential home inspection. I believe it is imperative that all home buyers in Kansas be afforded all of the same levels of consumer protection that are at the core of this statute.

Another concern that I have with this bill as currently written, is whether the administration of the statute can be funded with revenue generated from the licensing fees. The last roster of registered home inspectors numbered around two hundred. Even if this number has doubled in the last six years, it would still only create an annual revenue stream of approximately eighty thousand dollars (\$ 80,000.00) for the first year and a fraction of that in the years to follow. This would not appear to be enough money to pay for the salary of a administrative staff and office space, much less the salary of an executive director and other cost incurred by the board. Our first group of board members agreed to not seek reimbursement for any of our expenses and the board members agreed to fulfill virtually all of the administrative duties at no cost to the state so the lack of adequate funding was concealed from the legislature. Every licensing programs that I have been involved with was fully funded by licensing fees and permit fees. I believe any consideration for a new home inspectors registration should include funding for administrative cost and general office expenses. Instead of throwing out an annual budget estimate, I would defer to your first hand knowledge of the actual cost to fund similar licensing programs. It is my belief that adequate funding for this bill will exceed projected revenue from licensing fees several times over.

Lastly, I would like to touch upon the some of the industry problems that this statute is expected to eliminate. First and foremost, the number one complaint from the real estate industry the lack of consistency within the home inspection industry. And this is a very real concern that I have voiced for decades. This statute would not eliminate the disparity between one inspector's opinion and another inspector's opinion. For example, one inspector may recommend immediate replacement of roof shingles with less than five years of estimated remaining life, while another inspector only requires one to three years of remaining life, while yet another inspector requires that an existing roof cover need only comply with the minimum housing code adopted by a local jurisdiction; the roof must be weather-tight. This difference in opinions can result in ten to twenty thousand dollars of cost being imposed on the seller or the buyer.

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Another common issue, revolves around foundation repairs required by home inspectors. One home inspector may require immediate structural repairs for any foundation damage, differential foundation settling, or foundation displacement, while another inspector may require immediate repairs only if the structural integrity of the foundation has been significantly compromised as defined by the model building codes. The difference in opinions can equate to tens of thousands of dollars. And it is not uncommon for two licensed home inspectors to have completely opposite opinions for the very same house. This statute will do little to eliminate the most common home inspection issues that arise when selling or purchasing a home. I could literally go on for hours describing other similar complaints and scenarios raised by real estate agents, appraisers, sellers, and buyers, but for any of you who have purchased or sold a home in the last twenty years you probably have a few stories of your own to tell.

There are a number of other reasons that I support this bill and a number of concerns that I have about this bill as it is written, but I am sure other testimony will probably cover the same ground. In closing, I would like this committee to know that I have dedicated a vast majority of my business career to helping property owners construct, acquire, repair, and maintain commercial and residential buildings. I have gained a tremendous amount of experience from those days while earning a journeyman and master license, through the years of being a certified building official for Topeka and Lawrence, and from the immeasurable knowledge gained while performing over twenty thousand inspections of commercial and residential building (see attached curriculum vitae). I will continue to offer my support and assistance to this committee and to the home inspection industry in any way possible. Senator Lynn and committee senators, thank you for giving me the opportunity to provide you with my perspective today and thank you for the time and effort you have made to improve the home inspection industry. I would welcome any request for additional information.



National Building Consultants

About National Building Consultants

National Building Consultants has provided building inspections and environmental testing services in the Topeka and Lawrence area for over thirty years. Whether a buying a commercial facility or an investment property, whether building your dream-home or purchasing your first home, NBC can provide you with the most comprehensive inspections and environmental testing services available in the real estate industry.

CERTIFICATIONS, DEGREES, LICENSES AND AWARDS RECEIVED BY RALPH PIMENTEL INCLUDE:

*Appointed By Governor Sebelius To The State of Kansas Home Inspectors Board, 2nd District
Reappointed By Governor Parkinson To The State of Kansas Home Inspectors Board, Vice-Chair
Reappointed By Governor Brownback To The State of Kansas Home Inspectors Board, Chairman*

State of Kansas Home Inspectors License

Former Building Inspector for the City of Topeka

Former Building Inspector for the City of Lawrence

Certified Building Inspector, ICBO, ICC

Certified Mechanical Inspector, ICBO, IAMPO

Certified Plumbing Inspector, ICBO, IAMPO

State of Kansas Licensed Radon Measurement Technician

Certified Asbestos Inspector, AHERA, Mayhew Environmental Training Association

Certified Indoor Air Quality Specialist, University of Kansas.

American with Disabilities Act Compliance Specialist, ICBO

Masters License City of Topeka

Masters License City of Lawrence

International Journeyman Certification Local #77

Bachelor of Arts, Business Administration, Washburn University

Awarded Multiple United States Patents

Published by Journal of Light Construction

Published by International Conference of Building Officials

Published by the International Association of Plumbing and Mechanical Officials

Listed in Who's Who in Business Executives and Professional of America 1997

INSPECTIONS FOR COMMERCIAL AND RESIDENTIAL PROJECTS THAT INCLUDE:

Over 21,500 Residential Inspections

The West Ridge Regional Mall, Topeka

The Expocentre, Topeka

The Heartland Race Park Tower Facility, Topeka

Washburn University Computer Center, Topeka

The Performing Arts Center, Topeka

Santa Fe Office and Computer Complex, Topeka

Tanger Outlet Mall, Lawrence

Lawrence Medical Center

The Superconductivity Science Center, Lawrence