

SESSION OF 2009

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE BILL NO. 2260**

As Agreed to April 1, 2009

**Brief\***

The bill would revise certain provisions of the Kansas Home Inspectors Professional Competence and Financial Responsibility Act to do the following:

- Delete the provision of the pre-inspection notice that identifies the national home inspection organizations the home inspector is a member of at the time of the inspection;
- Delete the definitions of “dismantling;”
- Redefine “material defect;”
- Require the Chairperson and the Vice-Chairperson of the Kansas Home Inspectors Board (Board) to be a registered home inspector;
- Delete the provision which makes the Secretary of State the custodian of all permanent records of the Board;
- Add to the Board’s duties the adoption of a single standard of practice and a code of ethics;
- Add to the Board’s duties and powers the ability to investigate allegations of misconduct against an applicant and registrant. The Board would have access to and the

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right to examine and copy any document, report, record or other physical evidence of any inspector who is being investigated, as well as access to any document, report, record or other evidence maintained by and in the possession of any registered home inspector. In addition, the Board would be able to require the attendance and testimony of any registered home inspector;

- Authorize the Board to approve courses of study, educational providers and providers of continuing education through rules and regulations. In addition, the Board could contract with agencies or consultants to assist the Board in obtaining information about educational providers;
- Allow the Board to deny, suspend, or revoke a registration to anyone convicted of a misdemeanor involving dishonesty. Denial also could be based on the following:
  - Inspecting for a fee any property in which the home inspector has a personal or financial interest, unless the interest is disclosed in writing;
  - Offering a kickback or referral fee;
  - Accepting work to perform an inspection where the fee is contingent upon the report's findings;
  - Disclaiming liability for any errors and omissions which may arise during an inspection or to limit the amount of damages for any errors or omissions to less than \$10,000 in the aggregate for each home inspection;
  - Failing to substantially follow the approved standards of practice and code of ethics regarding home inspections;
  - Failing to provide a pre-inspection notice;

- Failing to follow approved standards of practice and code of ethics regarding home inspections; or
- Failing to respond to the Board when summoned or to produce documents during an investigation.
  
- Require the Board to refuse to issue a registration if the applicant or registrant has pled guilty to or has been convicted of a felony or misdemeanor. However, the Board would have the discretion to grant a registration if sufficient time had passed since the completion of a criminal sentence or conviction. For most felony convictions, it could be after five years. For those convictions that would require a person to register pursuant to the Kansas Offender Registration Act, a person could apply for a home inspector registration after fifteen years. If the Board chose to exercise this discretion, the bill would provide the Board with several factors to consider, including the nature of the past criminal activity, the age of the person at the time that the crime was committed, and the recent history of the applicant;
  
- Provide that the denial, suspension, or revocation of registration would be in accordance with the Kansas Administrative Procedure Act;
  
- Allow the Board to set fees which would be expanded to include a late renewal fee up to \$50, reinstatement of an expired or revoked registration up to \$300, and for a duplicate registration certificate up to \$25. Charges up to \$500 to review an application packet submitted for approval by an education provider for pre-registration courses and a fee up to \$50 to review an application packet for a provider of continuing education classes would be included;
  
- Change the deadline for all home inspectors to register by the same date of January 1, 2010. Currently, the law

specifies that home inspectors working in counties with a population greater than 60,000 have to register by July 1, 2009, and those home inspectors working in counties with a population less than 60,000 are required to register by January 1, 2011;

- Revise the surety bond method of showing proof to the Board of financial responsibility. The bill would require a registered home inspector to file a surety bond with the Board in the amount of not less than \$10,000 per year;
- Delete the provision that a registered home inspector must show the Board proof of membership in a national home inspector organization;
- Clarify provisions relating to the successful completion of exams approved by the Board along with exemptions to taking the exams;
- Require registered home inspectors to retain copies of certain documents relating to the performance of home inspections for a period of 24 months after a home inspection occurs;
- Establish a date for registration renewal, provide for non-renewal 30 days following an expiration date. Registrants could be granted inactive status. The inactive status fee could be up to \$50. Home inspections could not be conducted when a registrant is in inactive status. The Board may reinstate a registration upon application and a payment of a reinstatement fee, established by the Board. Guidelines for determining whether an applicant should be reinstated would be established by the Board;
- Provide that a person who is not registered as a home inspector may assist a registered home inspector with an inspection provided the person is supervised by a registered home inspector and the inspection report is reviewed and signed by the registered home inspector;

- Change the provision regarding the Executive Secretary of the Board's salary which would be approved by the Governor and not the State Finance Council, as it is in current law; and
- Establish that employees of the Board would be in the classified service under the Kansas Civil Service Act.

The bill would sunset the provisions of the Kansas Home Inspectors Professional Competence and Financial Responsibility Act on July 1, 2013.

### **Conference Committee Action**

The Conference Committee agreed to adopt the Senate Substitute bill with the following changes:

- Redefine material defect by deleting the provisions dealing with the cost of repairs;
- Insert misdemeanors to the crimes under which the Board may renew or grant registration to determine rehabilitation; and
- Make technical changes.

### **Background**

Proponent testimony was provided by the Kansas Home Inspection Registration Board and the Kansas Association of Real Estate Inspectors. The Kansas Home Inspectors Professional Competence and Financial Responsibility Act was enacted by the Legislature in 2008. The bill, as approved by the House, was viewed as clean-up legislation.

In addition to neutral testimony provided by the Secretary of State's Office, opponent testimony from home inspectors

was given to the Senate Committee. Opponents noted that there have been few public complaints about the services provided by home inspectors.

In the substitute bill, the Senate Committee approved the following provisions that are different from the House version of the bill:

- Redefine “material defect;”
- Require the Vice Chairperson of the Board to be a registered home inspector;
- Require the Board to adopt a single standard of practice rather than multiple standards;
- Distinguish between felony convictions that would prohibit an applicant from receiving a registration. The language in the substitute bill is similar to the provisions found in the statutes regulating the real estate industry;
- Designate a single deadline for all home inspectors to register, regardless of location;
- Revise the surety bond method of showing proof of financial responsibility;
- Require registered home inspectors to retain copies of certain home inspection documents; and
- Sunset the Act on July 1, 2013.

The fiscal note on the original bill may not be applicable to the substitute bill.