

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1507

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1507

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1507

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 2/10/05

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|----------|
| 3 | x | | -9.1-end |
| 4 | x | | 0-end |
| Committee Clerk Signature <i>Dale H. Zywi</i> | | | |

Minutes: HB 1507 Relating to the registering of home inspectors and to provide a penalty.

Rep. Margaret A. Sitte-District 35 Central Bismarck-For-I am bringing this bill before you because of a constituents concern. Home Inspectors spell trust and Real Estate agents increasingly are referring there clients to Home Inspectors, because they realize that they don't have the ability to accurately check every aspect of a home and so people buy the services of a Home Inspector, trusting that these people will find obvious flaws in the home before they purchase. For the most part Home Inspectors do a wonderful job, people are very happy with there services. This is one emerging profession that has no credential of substance behind it from the state, anyone of us could hang out a shingle and call ourselves Home Inspectors and so the bill before you today is a first attempt to start to bring some credibility to this profession, from a state prospective. We have come with a registering with the Secretary of State and to bring some professionalism to this profession. We would like them to have errs and omission insurance, also.

Rep. Klemin: The bill provides for the Secretary of State to adopt rules regarding registration, so far as errors and omissions are concern, isn't that contrary to what you just said about the Secretary of State not being a policing unit. I assume that the intent of this is that somebody couldn't have errors and omissions insurance, be registered and then drop it, if the insurance is dropped or canceled, or revoked, that the insurance company would have to notify the Secretary of State, is that the idea?

Rep. Sitte: That is exactly what happens with contractors now, if a contractor has his licensed revoked, there is an automatic trigger that is sent to the Secretary of State and that is what we would want to happen hear.

Kyle Hellman-For-Testimony Attached

Deborah Hellman-For-Testimony Attached

Rep. Klemin: This bill that we have here would require insurance, but it doesn't say anything about the amount of the insurance coverage that would be required, do you have any comments on that issue?

Deborah: I don't think I am qualified to determine how much insurance is appropriate, that is something the Secretary of States office and input by other people. In our case \$200,000 or \$250,000 dollars.

Rep. Froseth: How old was the house and did you have any recourse from the previous owners or the contractor that built the house.

Deborah: The house was built in 1983, we have pursued legal action against the previous owners and one of the individuals have filed bankruptcy. Our former attorney does not believe that we will be able to recover our damages.

Rep. Sitte: We are looking at 250,000 dollars worth and that is what the Secretary of State mentioned.

Clause Lembke-North Dakota Association of Realtors-For-Testimony Attached

Al Jaeger-Secretary of State-I am not sure whether I favor or oppose, we were approached by Rep. Sitte on whether our office would take this on, I think you need to know exactly what it is that we would be willing to do and what we would be willing not to do and what we don't want to become. We are not a board, I have no staff, the only extent that we were willing to enter into, is that we would merely be an office of record. Office of record where we would register the Home Inspector and provided they have the criteria, they would come in and provide us with errors and omission insurance. There is no dollar amount and we are not going to make a decision on the dollar amount, that is beyond what we are willing to do. A testing requirement, all we would do is see whether they had passed the test or not and collect a fee. All we are going to do is be an office of record.

Rep. Corned: Would you be interested in issuing a card, so they would have a registered card.

AL: We do that with all of other stuff, that is just a normal operation.

Rep. Klemin: Bottom of page 2, requires you to adopt rules about the insurance.

Al: We do not want to be the ruling authority and I want ask you to amend us out. I don't want to get into any other area, I only want to record documents.

Rep. Klemin: How would we do this so you would become aware that the person may have had insurance to start with, but no longer has it or verify that he does actually have it.

Al: I suggest that we do like we do with contractors. Contractors have to carry errors and omission insurance for the length of the license. If we receive a notice that the insurance has been canceled we revoke there license.

Rep. Klemin: Is there anything that requires insurance companies to notify you if the insurance lapses, or is revoked on the contractor?

Al: Yes, We have the system pretty well set up.

Rep. Kasper: Over the last number of biennium's has your office been able to turn back some of the appropriations that are in the general fund?

Al: Yes, we have had a history of being able to do that.

Rep. Kasper: Isn't the fiscal note around 10,000 dollars of expenditures, somewhere around those lines.

Al: When we do the budgeting process, we base it on what our job is. You are asking us to do something we have never done before and there is a cost on it.

Dean Foell-Home Inspector-Fargo, North Dakota-For-Testimony Attached

Chairman Haas: Did you say you have been in this business for about five years?

Dean: Yes.

Chairman Haas: What your line of work, before you became a Home Inspector?

Dean: I spent 20 years in the Air Force as an Air Craft Inspector. Chief Inspector at Grand Forks Air Force Base, during my off time I did home repair and home remodeling.

Rep. Amerman: Could you give us some idea on how much insurance a Home Inspector should carry?

Dean: I carry 300,000 dollars, it costs me around \$2500 to 3000 dollars a year.

Rep. Klemin: It was mentioned that there is a test that is given monthly in Fargo are you familiar with that.

Dean: You contact them on the web and they send you to the testing center, month to month.

Rep. Klemin: Is that the one you can but the answers on e bay?

Dean: If that is the National Home Inspectors examination you can, yes.

Rep. Klemin: Do you think there should be continuing education in order to maintain this registration?

Dean: I do, most of the organizations require continuing education. Right now there is no requirements for Home Inspections at all, but I do keep my continue my education.

Rep. Sitte: I do have some data, 16 states require education for licenser, 16 continuing education, 22 states require a licensing exam.

Opposition on HB 1507

Rep. Louise Potter-District 17- As a house member and as a Realtor I certainly understand the issues and they are substantial issues and when a client or customer of mine would get caught in something like this I would truly be sick. I am very sorry for your troubles and for your expense. Just this last weekend there was a article in the Grand Forks Herald, I cut it out and I thought you would be interested in having that. I also have Robert Kramers testimony.

Robert Kramer-Home Inspector-Grand Forks, North Dakota-Against-Testimony Attached

Rep. Corned: Do you see that this could be a first step in getting the licenses, I hate in the interim to see another family go through what this family has gone through.

Rep. Potter: I think it could be a first step, my only concern is when we try to make a second step which could be next session or whenever that we would say we already have this and why do we need to continue further.

Rep. Conrad: What was in your bill that is missing in this bill?

Rep. Potter: The original bill last session was for licensing, there is a great reluctance to set up another board. It is very expensive to set up a new board and to get them to join another group. It was trying to get them hooked up. I agree with Mr. Kramers thought, as far as you could try to hook them up with the board of Realtors.

Melvin Zent-Certified Health Inspector-Home Inspector-Oppose-Testimony Attached

Rep. Froseth: Do you carry any kind of bonding or insurance, liability insurance now that would cover the consumer?

Melvin: No I don't.

Rep. Froseth: Can you get bonding for this, is possible to get a bond rather than errors and omission insurance?

Melvin: When I checked into insurance and my local insurance company couldn't insure me. The premium was 1200 dollars at that time.

Rep. Froseth: Bonding wasn't an option?

Melvin: There was no option at that time.

Rep. Kasper: You said in your testimony that you can't afford the premium, if the premium would kill you, might kill most of the other Home Inspectors. If you can't afford the premium and you were the Home Inspector that inspected the Hellmans, where there was 100,000 dollar loss and you were sued, let just say you had a bad day that day and you were the inspector **and**

they **have** a 100,000 dollar loss and you don't have the coverage and they have the problem, what would you do.

Melvin: Good question. I don't know, lets just say I had bad day and I over looked this problem, what I would do as a human being, I would work with the Hellmans the best I know how to try and get the problem resolved. Yes you could come after me for 100,000 dollars, I would be the one filing bankruptcy myself.

Rep. Kasper: That's the problem, they have a problem and they were, according to there testimony, given very, very poor service and now they are stuck to pay for it and that home inspector did file bankruptcy. There comes a point and time if you want to be in a profession where you have the responsibility that your profession has, which is huge, you got take the effort to offer the consumer protection, isn't that the right thing to do?

Melvin: I totally agree with you. I also totally agree with somebody that is in that field be trained and if that individual is trained, even on a bad day some of that stuff should have been caught. If you have the background, knowledge you are going to pick it up. If you don't know what doing, you are going to over look a lot of things.

Rep. Kasper: I don't disagree that you should be trained, but it still leaves the problem and the financial loss unresolved without some type of benefit for the consumer, isn't that what the crux of this bill is all about?

Melvin: Yes, it is. If the bill does pass, what is the going premium, again I look at it, you got deep pockets, lets go after that person.

Rep. Potter: Thank you for being here, in your area, how many home inspectors would there be in your area?

Melvin: Two years ago I did hear there was a gentlemen in Watford City that was starting up a home inspection service. Approximately a year ago there was a gentlemen in South Hart, that was also looking at starting up a home inspection service.

Rep. Potter: There are only two left in your area, if we had the EO Insurance you would be out.

Melvin: I couldn't afford it.

Rep. Boehning: Does the city carry any insurance for you as a city inspector.

Melvin: The city does carry insurance for the city building inspectors.

Rep. Boehning: I guess on that order, the city is covering you as city building inspector don't think it would be quite proper to, if you are a home inspector to carry insurance.

Melvin: That is correct.

Chairman Haas: Thank you very much. Anymore questions on HB 1507. We close the hearing on HB 1507.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1507

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 2/10/05

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-----------|
| 5 | x | | 12.4-19.4 |
| | | | |
| Committee Clerk Signature <i>Diana Y. [Signature]</i> | | | |

Minutes: HB 1507 Relating to the registering of home inspectors and to provide a penalty.

13 members present, 1 absent.

Discussion on HB 1507

Chairman Haas: Rep. Sitte has distributed her amendments.

Rep. Sitte: I move that we adopt these amendments.

Chairman Haas: Rep. Sitte moves that we adopt these amendments that she has presented to HB 1507 is there a second.

Rep. Meier: I second.

Chairman Haas: I am going to let you look at them for a moment. Is there any discussion.

Rep. Sitte: It does seem redundant on the forth line, number 2, he added satisfactory completion of, the second time, I really don't think we need that, because at the beginning of that sentence, we could actually delete that extra verbiage.

Rep. Klemin: Don't we have to delete the word or on line 3.

Rep. Sitte: Yes, thank you Rep. Klemin, I did check that one upstairs, but didn't catch it now. I will ask them to delete that.

Chairman Haas: Is there any further discussion?

Rep. Kasper: I am concerned when you delete lines 24, 25, 26, and 27, I don't think you are strong enough on the errors and omissions insurance. The way it is written now, you shall submit proof of current errors and omission insurance in the amount of \$50,000 dollars or more. It should qualify it that it covers all home inspection activities, it does not say that, you could buy errors and omissions for your car. I am concerned it is very restrictive down here and very specific and it is not up here.

Rep. Sitte: Yes, I see your point.

Chairman Haas: Rep. Sitte would it be OK if we just, where it says dollars or more, add covering all home inspection activities.

Rep. Sitte: I don't think we need examination, I really don't think we need to say it again in line 4 again.

Rep. Klemin: You don't need the word of.

Chairman Haas: Is there any further discussion on the amendments? If not we will take a voice vote. All in favor of the amendments say I, oppose say no. Amendments are unanimously carried. What are your wishes on the bill.

Rep. Meier: I move a Do Pass as amended.

Chairman Haas: Rep. Meier moves a DO PASS as AMENDED, is there a second.

Rep. Sitte: I second.

Chairman Haas: Seconded by Rep. Sitte. Is there any further discussion?

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House Government and Veterans Affairs Committee
Bill/Resolution Number HB 1507
Hearing Date 2/10/05

Rep. Sandvig: Are we still going under the Secretary of State?

Chairman Haas: Yes we are. Any more discussion? I will ask the clerk to take roll on a DO

PASS as AMENDED on HB 1507.

VOTE: YES 12 NO 1 ABSENT 1 DO PASS AS AMENDED

REP. SITTE WILL CARRY THE BILL.

FISCAL NOTE
 Requested by Legislative Council
 02/17/2005

Amendment to: Engrossed
 HB 1507

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2003-2005 Biennium | | 2005-2007 Biennium | | 2007-2009 Biennium | |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | \$0 | \$0 | \$8,000 | \$0 | \$2,000 | \$0 |
| Expenditures | \$0 | \$0 | \$15,000 | \$0 | \$2,000 | \$0 |
| Appropriations | \$0 | \$0 | \$15,000 | \$0 | \$2,000 | \$0 |

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| 2003-2005 Biennium | | | 2005-2007 Biennium | | | 2007-2009 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This would be a new duty for the Secretary of State's office.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The revenue estimate was based on 40 new registrations at \$200 each for the first year and 40 renewals each year thereafter at \$50 each. Since the agency has no historical data as to how many inspectors would be registered, the revenue is a variable figure.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Whenever the agency takes on a new licensing function, its database and website need to be programmed to be able to perform the function at the same level of productivity, record keeping, public service, etc. that is provided for all other agency functions. The amount listed in 1A pertains to the cost of that programming and the continued maintenance of the record keeping. Regardless of how many licensees, the cost for creating and maintaining the record would be approximately the same whether there are 40 registrations or 100 registrations.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Because it was unaware of the bill and proposed new duty, the agency did not request funding in its requested budget for 2005/2007 biennium to implement this new program.

| | | | |
|----------------------|-----------|-----------------------|--------------------|
| Name: | Al Jaeger | Agency: | Secretary of State |
| Phone Number: | 328-2900 | Date Prepared: | 02/17/2005 |

FISCAL NOTE
 Requested by Legislative Council
 02/15/2005

Amendment to: HB 1507

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2003-2005 Biennium | | 2005-2007 Biennium | | 2007-2009 Biennium | |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | \$0 | \$0 | \$8,000 | \$0 | \$2,000 | \$0 |
| Expenditures | \$0 | \$0 | \$15,000 | \$0 | \$2,000 | \$0 |
| Appropriations | \$0 | \$0 | \$15,000 | \$0 | \$2,000 | \$0 |

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| 2003-2005 Biennium | | | 2005-2007 Biennium | | | 2007-2009 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This would be a new duty for the Secretary of State's office.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The revenue estimate was based on 40 new registrations at \$200 each for the first year and 40 renewals each year thereafter at \$50 each. Since the agency has no historical data as to how many inspectors would be registered, the revenue is a variable figure.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Whenever the agency takes on a new licensing function, its database and website need to be programmed to be able to perform the function at the same level of productivity, record keeping, public service, etc. that is provided for all other agency functions. The amount listed in 1A pertains to the cost of that programming and the continued maintenance of the record keeping. Regardless of how many licensees, the cost for creating and maintaining the record would be approximately the same whether there are 40 registrations or 100 registrations.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Because it was unaware of the bill and proposed new duty, the agency did not request funding in its requested budget for 2005/2007 biennium to implement this new program.

| | | | |
|----------------------|-----------|-----------------------|--------------------|
| Name: | Al Jaeger | Agency: | Secretary of State |
| Phone Number: | 328-2900 | Date Prepared: | 02/15/2005 |

FISCAL NOTE
Requested by Legislative Council
01/18/2005

Bill/Resolution No.: HB 1507

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2003-2005 Biennium | | 2005-2007 Biennium | | 2007-2009 Biennium | |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | \$0 | \$0 | \$20,000 | \$0 | \$5,000 | \$0 |
| Expenditures | \$15,000 | \$0 | \$10,000 | \$0 | \$5,000 | \$0 |
| Appropriations | \$0 | \$0 | \$15,000 | \$0 | \$5,000 | \$0 |

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| 2003-2005 Biennium | | | 2005-2007 Biennium | | | 2007-2009 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This would be a new duty for the Secretary of State's office.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The revenue was based on 100 new licenses at \$200 for the first year and 100 renewals at \$50. Since the agency has no historical data as to how many inspectors would be licensed, the revenue is a variable figure.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Whenever the agency takes on a new licensing function, its database and website need to be programmed to be able to perform the function at the same level of productivity, record keeping, public service, etc. that is provided with all other agency functions. The amount listed in 1A pertains to the cost of that programming and the continued maintenance of the record keeping. Regardless of how many licensees, the cost for creating and maintaining the record would be approximately the same whether there are 100 registrations or 200 registrations.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The agency does not have funds in its requested budget for 2005/2007 biennium to implement this new program unless funds are provided for the agency to do it.

| | | | |
|----------------------|-----------|-----------------------|--------------------|
| Name: | Al Jaeger | Agency: | Secretary of State |
| Phone Number: | 328-2900 | Date Prepared: | 01/18/2005 |

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1507

Page 2, line 4, after "of" insert "satisfactory completion of an examination on home inspection offered by the American society of home inspectors, the national association of home inspectors, or the examination board of professional home inspectors;

3. Shall submit proof of"

Page 2, line 5, replace "3." with "4."

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1507

Page 2, after line 3, insert:

- "2. Shall submit proof of satisfactory completion of an examination on home inspection offered by the American society of home inspectors, the national association of certified home inspectors, or the examination board of professional home inspectors or satisfactory completion of the examination of the international code council;"

Page 2, line 4, replace "2." with "3." and after "coverage" insert "in an amount of fifty thousand dollars or more"

Page 2, line 5, replace "3." with "4."

Page 2, remove lines 24 through 27

Renumber accordingly

**House Amendments to HB 1507 - Government and Veterans Affairs Committee
02/11/2005**

Page 2, after line 3, insert:

- "2. Shall submit proof of satisfactory completion of an examination on home inspection offered by the American society of home inspectors, the national association of certified home inspectors, the examination board of professional home inspectors, or the international code council;"

Page 2, line 4, replace "2." with "3." and after "coverage" insert "in an amount of fifty thousand dollars or more covering all home inspection activities"

Page 2, line 5, replace "3." with "4."

Page 2, remove lines 24 through 27

Renumber accordingly

Date: 2/14/05
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1567

House House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Rep Meier

Seconded By Rep Sitte

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------------------|-----|----|-----------------------|-----|----|
| Chairman C.B. Haas | | | Rep. Bill Amerman | | |
| Bette B. Grande - Vice Chairman | | | Rep. Kari Conrad | | |
| Rep. Randy Boehning | | | Rep. Louise Potter | | |
| Rep. Glen Froseth | | | Rep. Sally M. Sandvig | | |
| Rep. Pat Galvin | | | | | |
| Rep. Stacey Horter | | | | | |
| Rep. Jim Kasper | | | | | |
| Rep. Lawrence R. Klemin | | | | | |
| Rep. Lisa Meier | | | | | |
| Rep. Margaret Sitte | | | | | |
| | | | | | |
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| | | | | | |
| | | | | | |

Total (Yes) 12 No 1

Absent 1

Floor Assignment Rep Sitte

If the vote is on an amendment, briefly indicate intent:

Rep. Sitte adopt amendments
Rep. Meier second
voice vote motion carried

REPORT OF STANDING COMMITTEE

HB 1507: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1507 was placed on the Sixth order on the calendar.

Page 2, after line 3, insert:

- "2. Shall submit proof of satisfactory completion of an examination on home inspection offered by the American society of home inspectors, the national association of certified home inspectors, the examination board of professional home inspectors, or the international code council;"

Page 2, line 4, replace "2." with "3." and after "coverage" insert "in an amount of fifty thousand dollars or more covering all home inspection activities"

Page 2, line 5, replace "3." with "4."

Page 2, remove lines 24 through 27

Renumber accordingly

2005 HOUSE APPROPRIATIONS

HB 1507

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1507
Registering Home Inspectors

House Appropriations Full Committee

Conference Committee

Hearing Date February 15, 2005

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|---------------|
| 3 | X | | #19.5 - #30.4 |
| Committee Clerk Signature <i>Chris Alexander</i> | | | |

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on HB1507.

Rep Haas explained that this bill deals the registration of home inspectors with the Secretary of State's office. It requires at registration coverage for error and omissions, and testing by one of the nationally recognized organizations that certifies home inspectors. Short of a full licensing process the committee felt that it was important to start this work by using a registration process only. This has a registration fee of \$200 that is included in the budget for the Secretary of State. The fiscal note comes from Secretary of State Jaeger for the implementation of the registration process for home inspectors. Secretary Jaeger believes that since there are additional responsibilities for his office there should also be additional dollars. The committee felt that for this amount of money, it could be absorbed in Secretary of State's budget. This is for your committee to decide.

Rep. Clark Williams asked how many home inspectors there are.

Rep Haas answered 50 in the state of North Dakota.

Rep. Jeff Delzer asked how the committee came up with the \$200 for the registration fees.

Rep Haas answered that this was decided on after we did a comparison of registration and licensing fees.

Rep. Jeff Delzer asked what protection this gives to home buyers that they currently don't have.

Rep Haas answered that the biggest protection is that these inspectors would now be required to carry coverage for errors and omissions.

Rep. Ron Carlisle moved a Do Pass motion on HB1507.

Rep. Bob Martinson seconded.

Rep. Francis J. Wald moved a substitute motion to amend HB1507 on page 2 line 9 to change the E and O coverage from \$50,000 to \$100,000.

Rep. Mike Timm, Vice Chairman asked if Rep Haas has heard from a lot of people concerning problems in this area.

Rep Haas answered that there were tremendous amounts of emails both from people having problems and from the home inspectors themselves who believe this bill will help their credibility. Other inspectors thought that the cost for E and O coverage would be too pricey and would put them out of business. (meter Tape #3, side A, #24.0)

Rep. David Monson seconded the motion to amend.

Rep. Ken Svedjan, Chairman called for a voice vote on the motion to amend HB1507.

Motion carried

Page 3

House Appropriations Committee

Bill/Resolution Number HB1507

Hearing Date February 15, 2005

Rep. Francis J. Wald asked if loan officers should be included in section 4, line 19 under exceptions to registration requirements. Many of these folks do home inspections for lending purposes.

Rep Haas answered that this had come up in discussion for folks like city building inspectors.

Rep. Francis J. Wald commented that this could be amended in the Senate if they felt it necessary.

Rep. Eliot Glassheim commented that lines 22-23 on page 1 where it says "home inspections cannot be done for compensation" would answer Rep Wald's concerns.

Rep. Tom Brusegaard comments that we were debating GVA policy not appropriations.

Rep. Ron Carlisle moved a Do Pass As Amended on HB1507

Rep. Bob Martinson seconded (meter Tape #3, side A, #30)

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass As Amended motion for HB1507. Motion carried with a vote of 15 yeas, 7 nays, and 1 absence. Rep Wald will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed discussion on HB1507.

Date: February 15, 2005
 Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1507

House Appropriations - Full Committee

Check here for Conference Committee

Legislative Council Amendment Number 50376.0301

Action Taken DO PASS AS AMENDED

Motion Made By Rep Carlisle Seconded By Rep Martinson

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------------------|-----|----|----------------------|-----|----|
| Rep. Ken Svedjan, Chairman | X | | Rep. Bob Skarphol | | X |
| Rep. Mike Timm, Vice Chairman | X | | Rep. David Monson | X | |
| Rep. Bob Martinson | X | | Rep. Eliot Glassheim | X | |
| Rep. Tom Brusegaard | | X | Rep. Jeff Delzer | | X |
| Rep. Earl Rennerfeldt | | | Rep. Chet Pollert | | X |
| Rep. Francis J. Wald | X | | Rep. Larry Bellew | | X |
| Rep. Ole Aarsvold | X | | Rep. Alon C. Wieland | X | |
| Rep. Pam Gulleason | X | | Rep. James Kerzman | AB | |
| Rep. Ron Carlisle | X | | Rep. Ralph Metcalf | X | |
| Rep. Keith Kempenich | X | | | | |
| Rep. Blair Thoreson | | X | | | |
| Rep. Joe Kroeber | X | | | | |
| Rep. Clark Williams | | X | | | |
| Rep. Al Carlson | X | | | | |

Total Yes 15 No 7

Absent 1

Floor Assignment Rep Wald

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 16, 2005 2:57 p.m.

Module No: HR-31-3186
Carrier: Wald
Insert LC: 50376.0301 Title: .0400

REPORT OF STANDING COMMITTEE

HB 1507, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 7 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1507 was placed on the Sixth order on the calendar.

Page 2, line 9, replace "fifty" with "one hundred"

Renumber accordingly

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1507

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1507

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date March 14, 2005

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|---------|
| 1 | X | | 1-END |
| 1 | | X | 1-830 |
| 2 | X | | 1-150 |
| Committee Clerk Signature  | | | |

Minutes: **Chairman Mutch** opened the hearing on HB 1507, relating to the registration of home inspectors. All Senators were present.

Representative Margaret Sitte introduced the bill. See written testimony. She also passed out written testimony from Patricia Rothberg. See attached.

Kyle Hellman, appeared in support of the bill. See written testimony.

Senator Heitkamp- How did you choose that particular home inspector?

Kyle- The realtor advised us to get a home inspection, so we looked it up in the phone book.

Senator Espegaard- Did the realtor disclose to you any problems the previous owner may have disclosed to him?

Kyle- Basically, we signed the disclosure statement, and we have no recourse.

Senator Heitkamp- What information did the realtors provide? What role did they play in notifying you there was problems?

Kyle- They didn't. We sued the realtor, but they are claiming no responsibility since we had a home inspection.

Chairman Mutch- Did you inspect the home yourself before getting a home inspector?

Kyle- Yes, we looked it over 3-4 times. I didn't think spending \$250 was a big deal, I just wanted a complete home inspection.

Chairman Mutch- Have you heard of any other problems with home inspectors around Bismarck?

Kyle- We have been getting calls from other people, this is not an isolated case.

Senator Klein- Do you think the home inspector was not knowledgeable in areas that he should have been? Shouldn't they have to take classes on home inspection?

Kyle- Some people will oppose this bill because the insurance will be too much. The person who did our home inspection claimed to have 15 years of experience.

Senator Heitkamp- How did this home inspector go bankrupt?

Kyle- There have been another people who have sued him, so that may be a reason.

Senator Espegaard- How old is this house?

Kyle- The house was built in 1982, and the builder is still around.

Debra Hellman appeared before the committee in support of the bill. See written testimony.

Dr. Rob Bathurst appeared before the committee in support the bill. When a person buys a home, it is a major purchase. There are lots of factors to place into consideration. He explained his experience in purchasing a home in Bismarck, and the problems he encountered with home inspections.

Doreen Riedman, representing the ND Association of Builders appeared before the committee in support of the bill. Home inspectors provide a valuable service and should be held responsible for their actions.

Senator Klein- Do your people carry insurance?

Doreen- Our people carry liability insurance which is required by the contractor licensing laws.

Senator Heitkamp- There are many different layers in this situation. Should the home inspector be working for the realtor?

Doreen- You can bring in your own home inspector to check up.

Senator Heitkamp- Isn't there a level of responsibility in the cases we heard to the realtor?

Doreen- That would be up for the committee to determine. There are twenty other states around the country that regulate home inspectors.

Bonnie Staiger representing the American Institute of Architects appeared in support of the bill. The legislative branch is responsible for creating legislation that protects the health, safety, and welfare of the public. Home inspections in the rural areas is just as important as it is in the urban areas.

Senator Klein- Does this bill require you to hire a home inspector?

Bonnie- No. It would be up to the individual.

Senator Heitkamp- Rep. Sitte, under the registration of home inspectors, how does it work with the test?

Rep. Sitte- Some of the home inspectors go to Fargo and pay \$200 to take a test, others take it online for free.

Senator Heitkamp- You are not grandfathering any of the existing home inspectors, correct?

Rep. Sitte- Correct.

Senator Espegaard- Is there any training at all for a home inspector?

Rep. Sitte- They choose to take one test or another, or take continuing education for home inspectors

Senator Espegaard- What seems to be missing is education in the area of home inspectors, this needs to be a reputable business.

Secretary of State Al Jaeger appeared before the committee with neutral testimony. See attached. Nothing- Did you have any revenue turned back?

Secretary Jaeger- Yes. If its a new program it will require some investment on our part to create it.

Senator Espegaard- What was the responsibility of the appraiser?

Bonnie- Our attorney indicated that there was nothing that could be done with the appraiser.

Melvin Zent, a home inspector in Dickinson, opposes some parts of the bill. He is in favor of certification of home inspectors. He wonders what type of qualifications people get when they can go online and do an exam for free. There should have been a recourse in several cases. Lots of things should have been caught. If ants were concealed inside the wall during the winter, there is no way they could have been discovered. When he does a home inspection, he spends 2-4 hours in a home, and the total hours end up to be 10-14 per home inspection with the report work included. There should be some insurance coverage in the bill, just not how it is written.

Rod Warner, representing Northeast Mutual appeared with a neutral position. They have a risk management company in their portfolio, some of them are home inspectors. It is not possible to do 20 home inspections a week.

Senator Heitkamp- As a manager, wouldn't this bill cover you? Isn't that what insurance is for?

Senator Klein- Is it an issue of the home inspector? Or are there other issues there as well?

Rod- People that are certified as home inspectors have went through extensive training, and can do the best job possible. The concern is to what degree do they have to be held responsible for things they did not have any way of seeing.

Senator Klein- If we pass this bill, it will create more litigation. Will there be more disclosure?

Rod- Ultimately it puts fear into the background of management where the liability ends.

Senator Espegaard- Do some states have a mandatory home inspection rule?

Rod- I'm not sure. My guess is that it is not mandatory. Some cities have more home inspectors than others. Home inspection is another tool to help people become smarter buyers.

Senator Heitkamp- Does this give you any additional recourse?

Rod- We think that anyone in business needs to have back-up liability insurance, the issue here is negligence.

Chairman Mutch closed the hearing on HB 1507.

Action taken:

Senator Heitkamp made a Do Pass recommendation for HB 1507. Seconded by Senator Espegaard.

Discussion:

Senator Krebsbach- There seems to be conflict between the national association of home inspectors, and the national association of certified home inspectors.

The vote was 7-0-0. Senator Fairfield is the carrier of the bill.

50376.0401
Title. 500

Prepared by the Legislative Council staff for
Representative Sitte
March 8, 2005

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1507

Page 2, line 5, after the comma insert "the national association of home inspectors,"

Renumber accordingly

Date: 3-14-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1507

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended - referr to Approp.

Motion Made By Heitkamp Seconded By Espegard

| Senators | Yes | No | Senators | Yes | No |
|-------------------|-----|----|-------------------|-----|----|
| Chairman Mutch | X | | Senator Fairfield | X | |
| Senator Klein | X | | Senator Heitkamp | X | |
| Senator Krebsbach | X | | | | |
| Senator Espegard | X | | | | |
| Senator Nething | X | | | | |
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Total (Yes) 7 No 0

Absent 0

Floor Assignment Fairfield

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1507, as reengrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1507 was placed on the Sixth order on the calendar.

Page 2, line 5, after the comma insert "the national association of home inspectors,"

Renumber accordingly

2005 SENATE APPROPRIATIONS

HB 1507

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1507

Senate Appropriations Committee

Conference Committee

Hearing Date March 22, 2005

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|---------|
| 1 | a | | 0 |
| | | | |
| Committee Clerk Signature <i>Janet Parks</i> | | | |

Minutes:

Vice Chairman Grindberg called the hearing to order on HB 1507.

Representative Margaret Sitte, District 35, Bismarck, presented written testimony and testified in support of HB 1507, discussing the current law and the law as it would be in HB 1507. The law would require home inspectors to pass an examination, submit proof of errors and omissions insurance, pay a \$200 fee the first year and \$50 renewal fee each following year and register with the Secretary of State.

Several questions were asked, whether this bill applies to city inspectors, why have home inspectors, what the difference is between appraisers and home inspectors, what the fees go for, the cost of errors and omissions insurance, would it be less costly to have the inspectors have a bond, has the impact on small towns been considered, what the point is of home owners disclosing problems if we put an intermediary in place, why not go after the sellers.

Senator Ed Kringstad, District 35, Bismarck, testified in support of HB 1507, presented several events that would have benefited from the review of a home inspector and gave examples of construction areas that building inspectors do not handle.

Several questions were raised about what good a home inspector would have been in reconstruction instances, wouldn't a contractor have liability to cover mistakes, and what would be covered in the exam.

Doreen Redman, ND Association of Builders, testified in support of HB 1507 indicating that home inspectors are also being used in inspecting new construction. She also indicated the exam would encompass the whole home. She indicated that 20 other states have required registration and licensing of home inspectors.

Questions asked included if this is one group passing the buck to another group, when a home is listed doesn't the disclosure statement have to be made and then wouldn't the home owner be liable, would this E & O coverage prevent building inspectors from going bankrupt.

Bonnie Steiger, representing the American Institute of Architects, testified in support of HB 1507, indicating every group that provides a service to consumers has to be accountable.

Questions and concerns included every time something appears to be under control, a new group wants to get in there and it gives more layers of the bureaucracy for someone to challenge what is right and wrong, is there anything in the bill that an appraiser needs experience.

Senator John Andrist, District 2, Crosby, testified as a neutral individual on HB 1507 but then after hearing testimony, thought he should have testified in opposition. He indicated the most onerous part of the bills the requirement to have errors and omissions insurance as it will put the part time appraiser in small towns out of business. He distributed a proposed amendment which

Page 3

Senate Appropriations Committee

Bill/Resolution Number 1507

Hearing Date March 22, 2005

would state that if an appraiser is in a community of under 2500 population, he would be exempt from the requirements.

Questions raised included whether this was presented to the policy committee, would this exempt someone a mile out of the city limits of a larger community, is there something different that could be done through the handling of paperwork in the Secretary of State office, and what exactly do appraisers do.

Vice Chairman Grindberg closed the hearing on HB 1507.

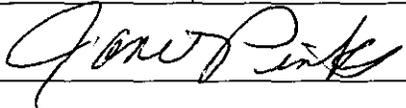
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1507

Senate Appropriations Committee

Conference Committee

Hearing Date March 23, 2005

| Tape Number | Side A | Side B | Meter # |
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| Committee Clerk Signature  | | | |

Minutes:

Chairman Holmberg opened the discussion on HB 1507 on home inspectors.

Senator Andrist distributed an amendment and **moved to pass the amendment .0402 with the change of 2500 to 3000, Senator Christmann seconded. A voice vote was taken and the motion carried.**

Senator Andrist moved an addendum to the amendment to lower the fee from \$200 to \$100 on page 2, line 12. There was a second. A voice vote was taken and the motion carried.

Senator Tallackson moved a **DO NOT PASS** as amended, **Senator Fischer** seconded.

Discussion was held. Discussion was held that this bill overlaps the Realtors and home owners liability and disclosure, some believe there is a need for this bill, small towns would have a difficult time with this, the duty at the state is to provide regulation to protect citizens as some do go bankrupt, some are skeptical as to who is accountable, the comment was made, we are here to

Page 2

Senate Appropriations Committee

Bill/Resolution Number 1507

Hearing Date March 23, 2005

fix problems . **A roll call vote was taken resulting in 6 yes, 8 no, 1 absent. The motion did not carry.**

Senator Thane moved DO PASS, Senator Kilzer seconded, A roll call vote was taken resulting in 6 yes, 8 no, 1 absent. The motion did not carry.

Senator Andrist moved a DO PASS without Committee Recommendation, Senator Thane seconded, A roll call vote was taken with 11 yes, 3 no, 1 absent. The motion carried.

Senator Andrist will carry the amendments with the bill unless IBL chooses to.

Chairman Holmberg closed the discussion.

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1507

In addition to the amendments adopted by the Senate as printed on page 832 of the Senate Journal, Reengrossed House Bill No. 1507 is further amended as follows:

Page 2, line 8, replace "Shall" with "Except for an applicant who certifies that the applicant will perform home inspections only for residential buildings located outside the corporate limits of any city or for residential buildings located within a city with a population under two thousand five hundred, shall"

Re-number accordingly

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1507

In addition to the amendments adopted by the Senate as printed on page 832 of the Senate Journal, Reengrossed House Bill No. 1507 is further amended as follows:

Page 2, line 8, replace "Shall" with "Except for an applicant who certifies that the applicant will perform home inspections only for residential buildings located outside the corporate limits of any city or for residential buildings located within a city with a population under three thousand, shall"

Page 2, line 11, replace "two" with "one"

Page 2, line 28, after "insurance" insert "as required for registration"

Renumber accordingly

Date 3/23
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 1507

Senate SENATE APPROPRIATIONS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Tallackson Seconded By Fischer

| Senators | Yes | No | Senators | Yes | No |
|-------------------------|-----|----|------------------|-----|----|
| CHAIRMAN HOLMBERG | | / | SENATOR KRAUTER | | / |
| VICE CHAIRMAN BOWMAN | / | | SENATOR LINDAAS | / | |
| VICE CHAIRMAN GRINDBERG | / | | SENATOR MATHERN | | / |
| SENATOR ANDRIST | / | | SENATOR ROBINSON | / | |
| SENATOR CHRISTMANN | | / | SEN. TALLACKSON | / | |
| SENATOR FISCHER | | / | | | |
| SENATOR KILZER | | / | | | |
| SENATOR KRINGSTAD | | | | | |
| SENATOR SCHOBINGER | | / | | | |
| SENATOR THANE | | / | | | |
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Total (Yes) 6 No 8

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date 3/23/05
 Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 1587

Senate SENATE APPROPRIATIONS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Thane Fisher Seconded By Kilzer

| Senators | Yes | No | Senators | Yes | No |
|-------------------------|-----|----|------------------|-----|----|
| CHAIRMAN HOLMBERG | / | | SENATOR KRAUTER | | / |
| VICE CHAIRMAN BOWMAN | | / | SENATOR LINDAAS | | / |
| VICE CHAIRMAN GRINDBERG | | / | SENATOR MATHERN | | / |
| SENATOR ANDRIST | | / | SENATOR ROBINSON | | / |
| SENATOR CHRISTMANN | / | | SEN. TALLACKSON | | / |
| SENATOR FISCHER | / | | | | |
| SENATOR KILZER | / | | | | |
| SENATOR KRINGSTAD | | | | | |
| SENATOR SCHOBINGER | / | | | | |
| SENATOR THANE | / | | | | |
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Total (Yes) 6 No 8

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date 3/23/65
Roll Call Vote #: 3

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 1587

Senate SENATE APPROPRIATIONS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken NO Comm Recommend

Motion Made By Andrist Seconded By Thane

| Senators | Yes | No | Senators | Yes | No |
|-------------------------|-----|----|------------------|-----|----|
| CHAIRMAN HOLMBERG | / | | SENATOR KRAUTER | / | |
| VICE CHAIRMAN BOWMAN | / | | SENATOR LINDAAS | / | |
| VICE CHAIRMAN GRINDBERG | / | | SENATOR MATHERN | | / |
| SENATOR ANDRIST | / | | SENATOR ROBINSON | / | |
| SENATOR CHRISTMANN | / | | SEN. TALLACKSON | | / |
| SENATOR FISCHER | | / | | | |
| SENATOR KILZER | / | | | | |
| SENATOR KRINGSTAD | | | | | |
| SENATOR SCHOBINGER | / | | | | |
| SENATOR THANE | / | | | | |
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Total (Yes) 11 No 3

Absent 1

Floor Assignment Andrist

If the vote is on an amendment, briefly indicate intent: IBL

REPORT OF STANDING COMMITTEE

HB 1507, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1507, as amended, was placed on the Sixth order on the calendar.

In addition to the amendments adopted by the Senate as printed on page 832 of the Senate Journal, Reengrossed House Bill No. 1507 is further amended as follows:

Page 2, line 8, replace "Shall" with "Except for an applicant who certifies that the applicant will perform home inspections only for residential buildings located outside the corporate limits of any city or for residential buildings located within a city with a population under three thousand, shall"

Page 2, line 11, replace "two" with "one"

Page 2, line 28, after "insurance" insert "as required for registration"

Renumber accordingly

2005 TESTIMONY

HB 1507

TESTIMONIAL ON HB 1507

PREPARED FEBRUARY 8, 2005

Regarding HB 1507 several issues are of concern to me as the reason why this House Bill is being proposed and what this bill is requiring if enacted into law.

I do believe that the need for some sort of registration with the governing body is needed that recognizes how many home inspectors are working within the state. One issue is the amount of money required for registration. Why is the need for \$200.00 a requirement for becoming registered under the State of North Dakota. If this department is responsible for issuing a yearly registration and nothing else, in my opinion, this registration could be a lot less.

The second issue is the certification of home inspectors. This bill is requiring that home inspectors be certified through the American Society of Home Inspectors, the National Association of Home Inspectors or the examination board of Professional Home Inspectors. What about the inspectors that are certified through ICC (International Code Council)? This is the organization that the State of North Dakota is using as the State Building Code. ICC is known throughout the nation. The certification that is required to become a certified building inspector is very hard to achieve. Some individuals have tried up to three times to write the exam and pass. This certification requires a new exam to be completed every 3 years and continuing education taken every year. I recommend that this bill recognize additional institutions or organizations that provide inspector certification and not limit it to the three that are listed in this bill.

The last issue and the most important is the requirement for errors and omissions insurance. How much time was dedicated in researching what it will cost and the availability of this insurance? My most recent inquiry which was on February 8, 2005, was to an insurance company that deals with multiple insurance agents. This agency indicated that it is not easy to insure a home inspector due to one, the classification, and two, the type of coverage needed. My latest quote is for a million dollar coverage at a cost of \$2,700.00 a year. This coverage requires that a twelve page questionnaire be completed and then only would the insurance company decide if they will insure you. The ordinary general contractor does not require this type of coverage. There is no definite policy that covers home inspectors. If this bill has your support, please consider removing the O & E insurance coverage because of the availability and costs of this policy. Please consider an alternative, if the House feels that some type of coverage is needed. I recommend and support licensing of home inspectors. I do feel that additional time and research is needed regarding insurance coverage. Please do not implement something that will result in pushing many home inspectors out of this field due to extreme costs.

Melvin Zent
3247 Lakeview Drive
Dickinson, ND 58601
(701) 483-2618

I am Robert Kramer and have been in the home inspection business in North Dakota since 1999. As a constituent of the great state of North Dakota and a practicing home inspector, I am compelled to provide my comments on House Bill 1507, which has been introduced by the Honorable Representatives Sitte, Keiser, and Martinson, and addresses the registration of home inspectors. Two factors led me into this business. First, as a home buyer I had to resort to litigation to resolve issues resulting from a poor inspection and poor disclosure. Secondly, I am retired Air Force firefighter and presently a Grand Forks City firefighter, 28 years as a professional firefighter, twelve of those serving as a fire inspector. I have a degree in fire science which includes extensive study on building codes, building construction, building design, investigation, and inspection processes. My military fire training provided me with advanced, comprehensive training that also covered building construction, codes, investigation and inspection procedures. I am a successful graduate of a nationally accredited home inspection course, a member of the National Association of Home Inspectors (NAHI) and Foundation of Real Estate Appraisers (FREA).

It is apparent to most home inspectors in this state that regulation is required in the industry to provide a baseline of expectation to the consumer. There needs to be a requirement for a minimum level of training, education and experience. The home inspection plays too vital of a role in the home buying process to have incompetent operators in the field. Many buyers base their decision to buy property on the findings of the inspection process. For this reason steps need to be taken to provide quality, competent inspectors.

A licensing bill was introduced to the 2003 legislature. Four months of exhaustive work by inspectors unfamiliar with this process went into developing that bill. It was a learning experience in many ways. In the months preceding the 2003 legislative session various state licensing laws were reviewed and used as guidelines for developing our proposal. Those involved with establishing and implementing licensing laws in other states were contacted to ascertain how effective they were. I attempted to contact and involve every home inspector in our state. I found inspectors by visiting city libraries to get names from phone books and personally spoke with most inspectors. I went to great lengths to involve every inspector in the state so we could have the benefit of input from each of them. We may not have contacted everyone, but we tried. Several meetings were conducted to formulate a proposal. I offered to conduct meetings in any city to get maximum participation. Some chose not to attend. I amassed an e-mail address listing of all inspectors that were contacted and kept them posted on meetings and relevant

correspondence on the bill. I kept the lines of communication open for input and ideas. About a dozen inspectors attended the meetings and showed active participation in the process, as well as the only two inspectors that opposed the bill.

The intent was to prevent future incidents from unscrupulous, unqualified inspectors. There are presently inspectors advertising to be licensed, registered, certified and/or insured. This is misleading to the consumer. The advertising does not clarify what they are licensed, registered, certified or insured for. Unsuspecting consumers expect this is associated with state licensing if they don't know better and ask the right questions. As we all know there is no licensing, registration or certification in North Dakota, so what are they licensed, registered or certified as? What is their insurance for? The consumer reads this and expects they are getting a measure of quality and competence, but that is not necessarily so.

One inspector's brochure states he has "25+ years of inspection experience". It does not state what he has 25+ years of experience inspecting. From reading it you would expect 25 years experience inspecting homes, but I know personally that is not the case. Advertising claiming an inspector is licensed, but licensed as what? Not as a home inspector. An advertisement states the inspector is "certified and insured", but does not clarify what he is certified at and what he is insured in. These statements are misleading to the consumer and paint a very different picture of who this inspector really is and what they have to offer.

Our efforts in 2003 were voted out and the bill did not pass.

On January 10 2005 I received a call about a home inspector licensing bill about to be introduced. I immediately contacted other inspectors to get information. No one had heard anything. Upon contacting Rep. Potter I learned a licensing bill was being introduced and the board of realtors would oversee the licensing process. This was a very bad situation because it presents a potential conflict of interest. Many of the better home inspectors make a point of ensuring their clientele is aware they are not affiliated with contractors or realtors to alleviate any potential for perceived conflict of interest. This is not because they do not like contractors or realtors, it is because they don't want their client to feel the inspection results are influenced to any degree by an interested third party. The client needs to be perfectly comfortable with that. Efforts are made in many states to keep home inspectors and realtors separate, for this very reason. Just the perception is bad, so it should not even be a consideration. Our licensing should fall under another entity. Our numbers

present a problem, maybe 25-50 throughout the state. We are too small a group to support ourselves. After much discussion the bill has been reduced from licensing to registration. All the registration bill requires is errors and omissions (E&O) insurance.

Not only will this hurt the existing industry in North Dakota; it will likely hinder any potential growth. Take for example the state of Alabama. In late 2004, the state of Alabama Building Commission promulgated rules that required E&O insurance of all licensed home inspectors in the state. Prior to the rule, there were approximately 350 licensed home inspectors, after adoption of this rule, the number of licensed home inspectors dropped to approximately 170. Considering most home inspectors are small businesses, the relationship is clear. E&O insurance forces small business owners out of business. I carry and am an advocate of E&O insurance, but I feel it is counterproductive to require it by law. The least expensive E&O insurance currently available for home inspectors is \$2,800. This does not include bonding or general liability insurance, strictly E&O. This will very easily price many inspectors, especially the smaller market inspectors, out of business. They won't be able to afford E&O and the other costs associated with doing business. It takes me two and a half months of inspections just to cover insurance, throw in my other expenses, crunch the numbers and you see this is a tough business to make ends meet. This is to show that it is a daily struggle in the market I am in, the inspector serving a lesser market than myself would not be able to survive if required to obtain E&O insurance. Some areas would then be without the benefit of home inspectors. This isn't something I would like to see. Requiring insurance will increase the occurrence of frivolous law suits. According to Mr. Chris Butler of the Foundation of Real Estate Appraisers (FREAA), 65% of claims against inspectors are frivolous. Insurance companies have dropped inspectors that have had a claim filed against them, whether they lose the claim or not. If your company drops you then you are not likely to get coverage from another company and are out of business. Some think this will weed out bad inspectors. That logic ends up penalizing the remaining inspectors. Filed claims raise premiums, so the remaining innocent inspectors get stuck with heftier premiums, possibly forcing some of them out of business if they can't afford the increase.

Home inspection is a growing industry, and in that regard, a level of professionalism must be maintained of those who are practicing home inspectors. It is a sound consumer protection principle. However, instead of placing emphasis for consumer protection on mandating E&O insurance, I am of the belief that proper training and measurement of competency will more sufficiently protect the consumer. My comments for this testimony come without the privilege of

knowing all the facts of the claim driving the bill. I tried to get details so I could make a more informed decision based on the precise facts, but never found out anything more than a complaint was filed against a home inspector for a mold issue. If the home inspection was the problem, corrective action would be to provide a tool for determining competency. E&O insurance only provides a safety net after the fact. From a professional home inspector's and consumer's perspective, I would like to see an assurance, upfront, that a baseline expectation is provided. That would come in the form of licensing, requiring minimum education standards, experience, testing, code of ethics and standards of practice and continuing education. That would go a lot further than just E&O insurance. You need an operation and you have a choice between two doctors. One is a medical school graduate, fully approved, experienced and board certified but does not have malpractice insurance. The other has malpractice insurance but no other qualifications to provide to you. Who do you pick to operate on you?

Requiring E&O insurance is not the answer to this problem. This profession needs to be licensed. There seems to be a determination for this bill to go through no matter what. Given that, two amendments have been proposed to try and give the bill some legitimacy if it should pass. Those are testing requirements and a statute of limitations. The testing standard provides the bill with some measurement of competency. The statute of limitations provides relief from frivolous law suits brought over an extended period of time, many the result of poor owner maintenance. A home inspection is designed to be a one-time, visual snapshot of a property and cannot be expected to foresee all future deficiencies of the home. Providing a statute of limitations will allow for a more reasonable balance of protection to both the consumer and the home inspector.

I do not support the bill. I only support the amendments in an attempt to make this somewhat worthwhile in the event it passes. This bill does not come close to resolving the problem. I encourage all members to vote no for this bill. With the wide spread understanding that there needs to be regulation, a licensing bill can be proposed next session that will provide what is needed.

I thank the Honorable Louise Potter for reading my statement before this body and thank the committee for their thoughtful consideration of my comments.

1507

Clara testimony H 600 + Vet. Con 2-10-05
Lumbke ND Assoc of REALTORS

(6) HI are a very necessary function in Real Estate Transaction.

We support 1507 because it because it creates conditions and provides assurance that purchases can be made whole in cases of ERRORS by HI.

~~We would be concerned that too many
agreements would limit the # of HI~~

We were made aware of the Helman's problem in December when they wanted to file a complaint we agree that consumers need to be protected we have looked for a variety of solutions

(1) ~~Any~~ Any HI that is an affiliate with R must carry E & O Ins.
Many firms require that from HI

(2) create a standard under Appraisal Board

(3) create a standard under REC

(4) create a registr. with PSC

(5) now finally with Secy of State

Tri State Inspection Service Inc.

1109 71st Ave. South
Fargo, ND. 58104

Phone 701-297-0254

foelld@cableone.net

February 10, 2005

Committee members,

This letter covers my concerns of bill 1507. In my opinion the main part of the bill is correct. The amendment is where I have a problem. The amendment reads as follows.
A satisfactory completion of an examination on home inspection offered by the American Society of Home Inspectors (ASHI), the National Association of Home Inspectors (NAHI), or the examination Board of Professional Home Inspectors

As worded this will force me to become a member of an organization and duplicate the fact that I am already a member of two organizations not listed. I would rather see the amendment worded as follows.

Home Inspectors must satisfactory complete of an examination on home inspection offered by a professional national home inspection organization.

This would not limit a home inspector and it would not make me have to join another organization and pay additional membership dues.

Another plan would be to adapt a standard test for all home inspectors in North Dakota. This can be done in a simple way at no cost to the state of North Dakota.

The National Association of Certified Home Inspectors (NACHI) offers a free exam for home inspectors. This is a professional exam offered from the NACHI web site. This test covers several aspects of home inspection. I have taken the test and out of all the home inspection tests, this one is the best. You do not have to join NACHI to take the test. If you decide to join then you have other requirements you must meet.

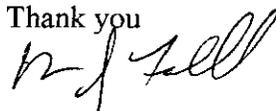
These links will explain everything. I encourage you to view the sites before making any decisions on the subject.

<http://www.nachi.org/membership.htm>

<http://www.nachi.org/aboutexam.htm>

Here is more information on other organizations. National Association of Home Inspectors (NAHI), a private company, US Inspect out of VA, owns NAHI so their exam should not be used. The National Home Inspector Examination, NHIE is really ASHI (they share a common building) and the NHIE (despite what they say) is not valid as Noel Zak (NHIE's Executive Director) said that the entire pool was drawn from members of only one association (ASHI). The answers to the test are sold on eBay for \$15.

Thank you



Dean Foell

Mr. Chairman and members of the committee, my name is Kyle Hellman and I support this bill because of my family's experience with a home inspector.

On May 21, 2004, my wife and I bought what we thought was our dream home. We had a professional home inspection done on the house prior to the purchase, and the inspector indicated that there were not any significant deficiencies in the house. During the home inspection we specifically asked about what we thought was an unusual appearance around a skylight in the sunroom and we were told that it was normal. Within days of moving into the house, we found that the skylight was leaking and home to ant nests. We were told by the inspector that the wavy ceiling in the basement was normal. We were told later by contractors that a wavy ceiling is an indication of ground heaving which can cause structural damage. We were told by the inspector to caulk a dime-sized hole in the exterior siding and paint over it. Within days we found that the siding was rotted and the hole was a point-of-entry for ants.

Due to health problems caused by the mold and ant infestations, we evacuated the house on June 21, 2004, one month after moving in. After living with my wife's parents for two months, we moved into an apartment, where we are still living today.

The ant infestation is such that after viewing video of some of the ant nests and examining ant samples, an NDSU Extension Service Entomologist wrote: "I have never seen any documentation of an ant problem to rival yours. ...The colonies have been there for a minimum of two years."

An environmental testing company performed testing in the house, which indicated "a heavy concentration of *Stachybotrys* species along with a medium to heavy concentration of *Penicillium* species and aerobic actinomycete" in the main level sunroom and living room. The report said "... this fungus in buildings is significant because of the mold's ability to produce mycotoxins, which are

extremely toxic..." Estimates to remediate the mold from the house are \$20,000 to \$25,000. Estimates to fix the moisture problems that have led to the mold and ant infestation are \$30,000 to \$50,000.

Contractors and an architect who have since looked at the house have told us there is little or no roof ventilation to allow the roof to "breathe," there is no flashing around the chimney, there is inadequate or improperly installed flashing in other areas of the roof, and there is extensive evidence of water damage on the ceilings in the interior of the house. All these items were easily discovered upon visual inspection by these professionals. The home inspector who advised us on the purchase of the house did not reveal any of these items to us.

We have tried to mitigate the mold on our personal property, but we continue to struggle with health problems. The primary health concern is for our 5-year old daughter. She has had a red, bumpy, sore throat since May 2004, continues to show signs of a sinus infection, and gets more congestion and a rash when around toys that were in the house. We don't know what the mold exposure is doing to her developing lungs and body.

We hired an attorney in an attempt to recover damages. The home inspector's answer to this action was to file for Chapter 13 bankruptcy protection. Our attorney has withdrawn from the case. He has indicated that because the home inspector did not have insurance, we will not be able to recover our damages or attorney fees from the inspector.

We have lost everything: our health, our home, and our life savings. We do not want any other families to suffer as we have. I urge you to vote in favor of this bill that will offer homebuyer protection.

Mr. Chairman and members of the committee, my name is Deborah Hellman.

It seems appropriate that we are here today during National Consumer Protection Week, because this bill is about consumer protection. It is not only about the regulation of the individuals who engage in the occupation of home inspection; it is about the protection of the many thousands of North Dakota homebuyers who utilize the services of home inspectors each year. According to the U.S. Census Bureau 66.6% of North Dakotans are homeowners. According to research commissioned by the American Society of Home Inspectors, 77% of homebuyers utilize the services of a home inspector.

This is an industry whose very existence is based on homebuyer protection. It is interesting that some home inspectors are willing to accept a consumer's money to protect that consumer from a bad purchase decision but are unwilling to pay for insurance to protect that same consumer from errors or omissions that they, themselves, may make. This bill will not stop home inspectors from making mistakes; they are only human. This bill does however, offer some consumer protection.

To date, my family has invested approximately \$70,000 in a house that we cannot live in, cannot afford to fix, and cannot sell. We've tried, unsuccessfully, to sell this house for \$30,000 less than we paid. The potential damage caused by an inadequate or negligent home inspection can be significant. Our situation is proof. In case after case, homebuyers are being stuck footing the bill for major repairs that, if discovered before the sale, could have been taken into consideration before the purchase. What is the price in time, shattered dreams, heartbreak, and money that

North Dakota homebuyers must pay before it is the right time to offer them protection in the home buying process? How many homebuyers must be devastated? Who will be the next victim of this unregulated industry and how much will they lose?

We cannot "get back" the time we have invested in trying to resolve our situation. We cannot replace the time missed with our daughter while we were working additional hours at our jobs to make enough money to pay for a mortgage, apartment rental, and storage unit rental. We spent hundreds of hours with our hands in bleach water, cleaning our personal possessions, boxing them, and moving them. We've spent countless hours meeting with attorneys and completing legal documents. We've lost nearly a year of our lives in dealing with a situation that should not have happened.

In North Dakota an individual must be licensed and carry insurance to be an electrician, a realtor, or a construction contractor, but, there is no regulation of home inspectors. In any occupation, teacher, attorney, or barber, it is necessary to have education, training, and practice in order to be proficient. However, anyone, you or I, can put out a sign and call ourselves a "home inspector" without any education, training, experience, or insurance. These are the individuals who are advising homebuyers in the largest single investment that most people will make in their lifetime. Homebuyers deserve to have trained, competent, and insured home inspectors advising them.

I ask you to vote favorably for this bill which sets guidelines for a home inspection industry that is professional, reliable, and accountable.

Get home inspection before you buy

If you're buying a home, it's important to know the ins and outs of home inspection.

It's an analysis of the home's structural features and systems, such as water, gas and electric. The purpose is to find any structural defects, broken or obsolete systems, damage or wear and tear — before you assume ownership of the house or possession of the apartment.

In fact, nearly every real estate agent will recommend that a home inspection be conducted as part of your purchase contract, says the American Society of Home Inspectors.

In the new book, "1001 Tips for Buying and Selling a Home," author Mark Nash outlines what inspectors look for. Here are the keys for conducting a successful home inspection:

- Hire an inspector who has a state license for home inspection and is a member of the American Association of Home Inspectors.

- Understand that an inspector conducts a general survey — he or she may be an expert in some areas, but not in all.

- If possible, ask to make the tour with the inspector. You can ask him or her any questions you have. The inspector can also point out key features such as the gas and water cutoff valves.

- Learn what the inspector will be examining. Typically, he or she will look at features including fireplaces, foundations, roofs, siding, gutters, porches, chimneys, windows, doors, hot water heaters, pools and interior and exterior walls. The inspector will also look at mechanical systems including the plumbing, heating and air conditioning and electricity.

Use the tour to check for things that will fit your needs. For example, when the inspector examines the plumbing, make sure the water pressure is adequate. When he checks the electrical system, ask if the energy flow will be sufficient for your various appliances.

House Bill 1507 – Home Inspector Regulation

N.D. Senate Business, Industry and Labor Committee

March 14, 2005

Mr. Chairman and members of the committee, my name is Deborah Hellman.

Spring marks the beginning of the largest home-buying season in North Dakota. This bill is about protecting those homebuyers. According to the U.S. Census Bureau 66.6% of North Dakotans are homeowners. According to research commissioned by the American Society of Home Inspectors, 77% of homebuyers utilize the services of a home inspector.

This is an industry whose very existence is based on homebuyer protection. It is appalling that some home inspectors are willing to accept a consumer's money to protect that consumer from a bad purchase decision but are unwilling to pay for insurance to protect that same consumer from errors or omissions that they, themselves, may make. A home inspector can have all the training, testing, and experience in the world (the inspector in our case has passed a national test, belongs to a national organization, and boasts of 15 years experience), but inspectors are human and humans make mistakes. Without insurance who pays for the mistakes? The homebuyer. This bill offers some consumer protection to the homebuyer.

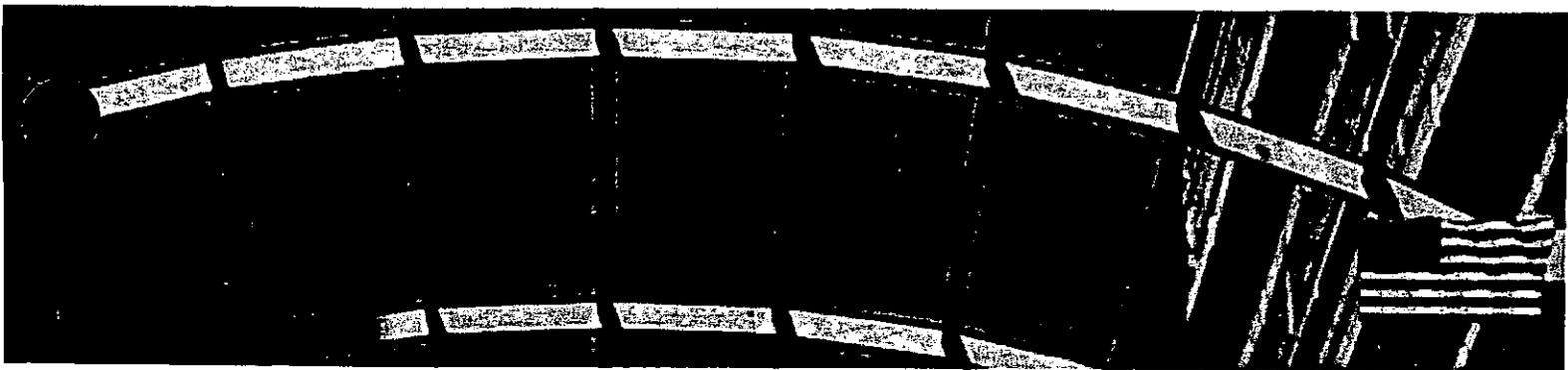
To date, my family has invested approximately \$70,000 in a house that we cannot live in, cannot afford to fix, and cannot sell. We've tried, unsuccessfully, to sell this house for \$30,000 less than we paid. The potential damage caused by an inadequate or negligent home inspection can be significant. Our situation is proof. In case after case, homebuyers are being stuck footing the bill for major repairs that, if discovered before the sale, could have been taken into consideration before the purchase. What is the price in time, shattered dreams, heartbreak, and money that North Dakota homebuyers must pay before it is the right time to offer them protection in the home buying process? How many homebuyers must be devastated? Who will be the next victim of this unregulated industry and how much will they lose?

We cannot "get back" the time we have invested in trying to resolve our situation. We cannot replace the time missed with our daughter while we were working additional hours at our jobs to make enough money to pay for a mortgage, apartment rental, and storage unit rental. We spent hundreds of hours with our hands in bleach water, cleaning our personal possessions, boxing them, and moving them. We've spent countless hours meeting with attorneys and completing legal documents. We've lost nearly a year of our lives in dealing with a situation that should not have happened.

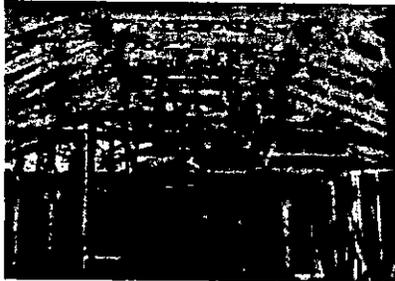
In North Dakota an individual must be licensed and carry insurance to be an electrician, a realtor, or a construction contractor, but, there is no regulation of home inspectors. In any occupation, teacher, attorney, or barber, it is necessary to have education, training, and practice in order to be proficient. However, anyone, you or I, can put out a sign and call ourselves a "home inspector" without any education, training, experience, or insurance. These are the individuals who are advising homebuyers in the largest single investment that most people will make in their lifetime and currently they are not being held accountable.

North Dakota home inspectors, Rick and LaVonne Parsons of Northstar Works, LLC, state on their web site, "*Consumers should be very careful when shopping for a home inspector. The industry on the whole is unregulated and many unqualified people offer home inspection services.*" Homebuyers, in communities large and small, shouldn't have to "*be very careful when shopping for a home inspector.*" All home inspectors should be trained, competent, and insured. Homebuyers deserve a home inspector that stands behind his work; behind his word. Without errors and omissions insurance to back up the home inspection, it is a worthless piece of paper.

I ask you to vote favorably for this bill which will set guidelines for a home inspection industry that is professional, reliable, and accountable.

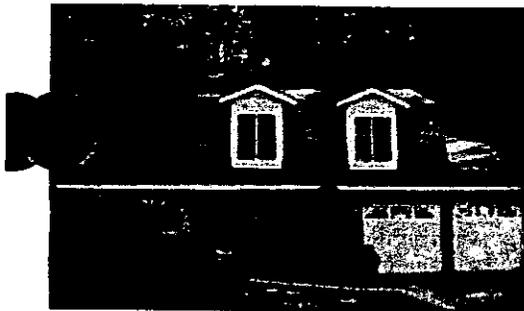


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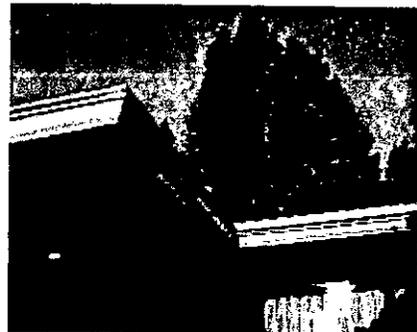


What is a Home Inspection?

A home inspection is a professional, objective, visual examination of the condition of a home. Home buyers now entering the marketplace view inspections as a way to gain valuable information about the biggest purchase of their lifetime. It helps them to determine whether there are any major defects or system inadequacies at the time of purchase.



In most cases, home inspections are performed after a sales contract, conditional upon a satisfactory home inspection, has been accepted by the seller. The inspection can usually be arranged immediately to within a few days. The home buyer is typically encouraged to attend the inspection, so that he/she can see first hand the workings of the home. It also represents an excellent opportunity for the prospective buyer to ask questions about the home or to discuss potential changes.



Home inspections should also highlight the positive aspects of a home. In fact, many of the home inspector's observations or recommendations help to dispel home purchaser anxieties, and provide useful repair suggestions.

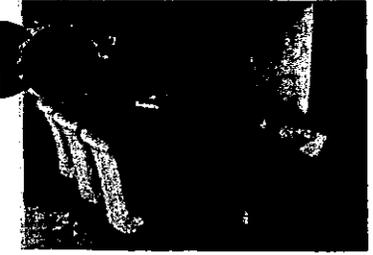


The home inspector's service to the purchaser is primarily one of education. The goal of the inspector is to provide the purchaser with a better understanding of the physical condition of the home in order that they can make a well-informed decision. It is also the inspector's role to keep his findings in perspective for the buyer. After the inspection is completed, a written report will be ready for the home buyer, documenting the results of the inspection. *

The home inspection should not be confused with an appraisal, a municipal code inspection, an environmental audit, or a home owner's warranty.

A complete home inspection should cover all of the major systems of a house, including structure, exterior, roofing, electrical, heating, cooling, insulation, plumbing and interior.

EXTERIOR COMPONENTS
ROOF, CHIMNEY, FLASHING, VALLEY-
 Evidence of water penetration, materials condition



EVIDENCE OF WATER PENETRATION, MATERIALS, CONDITION
 SIDING, TRIM, WINDOWS & STORMS-
 General condition of each
 LANDSCAPE-
 Proper grading and its effects on the foundation
 GUTTERS, DOWNSPOUTS-
 Overall condition and its ability to carry off rainwater
 DRIVEWAYS, PATIOS, DECKS, PORCHES-
 General condition of each
 AIR CONDITIONER COMPRESSOR
 Overall condition



INTERIOR COMPONENTS

HEATING SYSTEM-
 Visible portion of heating plant and components
 PLUMBING SYSTEM-
 All visible fixtures, pipes, and drains tested
 ELECTRICAL SYSTEM-
 Outside wiring, service panel and visible wiring inspected, random testing of outlets
 WALLS, FLOORS, CEILINGS, WINDOWS-
 General condition of each
 ATTIC-
 Visible roof sheathing, venting, insulation and framing
 BASEMENT, STRUCTURE, SUMP PUMP-
 Foundation soundness and evidence of moisture penetration



As a minimum, an inspection should meet the Standards of Practice of the National Association of Certified Home Inspectors (NACHI) or American Society of Home Inspectors® (ASHI®).



Consumers should be very careful when shopping for a home inspector. The industry on the whole is unregulated and many unqualified people offer home inspection services. Home inspection companies that offer to do repair work, should be avoided.

* The client has the option of either a written or on-line computer generated report with digital photos. The photos can be e-mailed or delivered by CD via the USPS.

ALVIN A. JAEGER
SECRETARY OF STATE

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SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

March 14, 2005

TO: Senator Mutch, Chairman,
and Members of the Senate Industry, Business and Labor Committee

FR: Al Jaeger, Secretary of State

RE: HB 1507 – Registration of Home Inspectors

The concern of the Secretary of State's office is not whether Home Inspectors should be registered.

Our concerns are related to the following two topics:

1. That it is known and made clear that the Secretary of State's office is only maintaining a public record of who has met the registration requirements listed in the bill. The agency will not be having any duties related to the professional qualifications of the inspector. Nor, will it be an arbitrator or seek restitution in any situation or dispute arising between an inspector and his or her clients.
2. As stated in the fiscal note, this is a new responsibility being assigned to the Secretary of State's office for which the agency did not request an appropriation in its budget for doing the required programming and related development, e.g., website and database, equal in standards to its other registration and licensing functions.



Testimony on House Bill 1507
Senate Industry, Business & Labor Committee
March 14, 2005

Doreen Riedman, Executive Officer
North Dakota Association of Builders

PRESIDENT
Joe Stenvold, Minot

PRESIDENT-ELECT
ALT. NATIONAL DIRECTOR/ALT. BUILD-PAC TRUSTEE
Don Dabbert, Jr., Fargo

SECRETARY/TREASURER
Lori Wilson, Bismarck

IMMEDIATE PAST PRESIDENT
Rusty Wysocki, Grand Forks

STATE REPRESENTATIVE & SR. LIFE DIRECTOR
Gerald Eid, Fargo

BUILD-PAC TRUSTEE & LIFE DIRECTOR
Bob Klave, Grand Forks

ASSOCIATE NATIONAL DIRECTORS
Ken Krajsa, Fargo
Mike Stenvold, Minot

LIFE DIRECTOR
Ralph Applegren, Grand Forks

BISMARCK-MANDAN HOME BUILDERS ASSOCIATION
Eddy Mitzel, President
Rory Schlosser
Lori Wilson
Eldon Krein, Executive Officer

DICKINSON AREA BUILDERS ASSOCIATION
Gene Bren, President
Lyle Bares
Gene Schaefer, Executive Officer

FORX BUILDERS ASSOCIATION
Barry Flath, President
Ralph Applegren
Bob Klave
Walt Kripe
Mario LaPlante
Tim Rosencrans
Rusty Wysocki
Betty McDonald, Executive Officer

HOME BUILDERS ASSOCIATION OF FARGO-MOORHEAD
Dave Anderson, President
Mike Arnold
Don Dabbert, Jr.
Gerald Eid
Ken Krajsa
Tony Watterud
Bryce Johnson, Executive Vice Pres.

MINOT ASSOCIATION OF BUILDERS
Dave Lebrun, President
Joe Stenvold
Mike Stenvold
Vicky Flagstad, Executive Officer

NORTH DAKOTA ASSOCIATION OF BUILDERS
Doreen Riedman,
Executive Officer
Lara Wisniewski,
Administrative Assistant

Chairman Mutch and members of the Senate Industry, Business & Labor Committee, the North Dakota Association of Builders (NDAB) supports Engrossed House Bill 1507, relating to the regulation of home inspectors.

The NDAB represents over 1,600 members statewide, and is affiliated with five local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, and Minot; and is part of a larger federation, the National Association of Home Builders (NAHB), which has over 215,000 members.

We support the idea of registering home inspectors and requiring them to maintain errors and omissions insurance. Home inspectors provide a valuable service, and should be accountable for the work they perform. Those who employ their services must have the assurances that they know their business and will be responsible for their actions.

New construction inspections are becoming more commonplace, with both homebuyers and builders hiring home inspectors. Builders want to ensure that home inspectors provide accurate analyses of the homes they inspect.

The North Dakota Association of Builders encourages you to support this legislation that is important to both homebuyers and homebuilders in North Dakota.



North Dakota Legislative Assembly
Business, Industry and Labor Committee

March 14, 2005

Mr. Chairman and members of the committee, my name is Kyle Hellman and I support this bill because of my family's experience with a home inspector.

On May 21, 2004, my wife and I bought what we thought was our dream home. We had a professional home inspection done on the house prior to the purchase, and the inspector indicated that there were not any significant deficiencies in the house. During the home inspection we specifically asked about what we thought was an unusual appearance around a skylight in the sunroom and we were told that it was normal. Within days of moving into the house, we found that the skylight was leaking and home to ant nests. We were told by the inspector that the wavy ceiling in the basement was normal. We were told later by contractors that a wavy ceiling is an indication of ground heaving which can cause structural damage. We were told by the inspector to caulk a dime-sized hole in the exterior siding and paint over it. Within days we found that the siding was rotted and the hole was a point-of-entry for ants.

Due to health problems caused by the mold and ant infestations, we evacuated the house on June 21, 2004, one month after moving in. After living with my wife's parents for two months, we moved into an apartment, where we are still living today.

The ant infestation is such that after viewing video of some of the ant nests and examining ant samples, an NDSU Extension Service Entomologist wrote: *"I have never seen any documentation of an ant problem to rival yours."* *"In all likelihood, there are multiple colonies... [Their] exact location may be difficult to determine."* He also wrote *"...the presence of carpenter ants is symptomatic of other wood decay problems as they do not normally infest wood in good condition. If the wood has been moist for a long enough time for it to begin to decay, it will be acceptable to carpenter ants."* *"The colonies have been there for a minimum of two years."*

An environmental testing company performed testing in the house, which indicated *"a heavy concentration of Stachybotrys species along with a medium to heavy concentration of Penicillium species and aerobic actinomycete"* in the main level sunroom and living room. The report says *"... this fungus in buildings is significant because of the mold's ability to produce mycotoxins, which are*

extremely toxic..." This is not the mold that grows in your bathroom between weekly cleanings. This is the kind of black mold that has been blamed for the deaths of infants and small children nationwide. This is the kind of mold that grows inside walls and ceilings after prolonged moisture damage; damage caused by building deficiencies that have since been easily discovered upon visual inspection by the trained eyes of contractors and architects. Estimates to remediate the mold from the house are \$20,000 to \$25,000. Estimates to fix the moisture problems that have led to the mold and ant infestation are \$30,000 to \$50,000.

Contractors and architects who have since looked at the house have told us there is little or no roof ventilation to allow the roof to "breathe" and prevent condensation damage; there is no flashing around the chimney to keep water out of the wall cavity; there is inadequate or improperly installed flashing in other areas of the roof allowing for water to penetrate the building; and there is extensive evidence of water damage on the ceilings in the interior of the house. All of these items were easily discovered upon visual inspection by these professionals. The home inspector who advised us on the purchase of the house did not reveal any of these items to us.

We have tried to mitigate the mold on our personal property, but we continue to struggle with health problems. The primary health concern is for our 5-year old daughter. She has had a red, bumpy, sore throat since May 2004, continues to show signs of a sinus infection, and gets more congestion and a rash when around toys that were in the house. We don't know what the mold exposure is doing to her developing lungs and body.

We hired an attorney in an attempt to recover our damages. The home inspector's answer to this action was to file for Chapter 13 bankruptcy protection. Our attorney has withdrawn from the case. He has indicated that because the home inspector did not have insurance, we will not be able to recover our damages or attorney fees from the inspector.

We have lost everything: our health, our home, and our life savings. We are now starting from scratch. We do not want any other families to suffer the same fate as we have. I urge you to vote in favor of this bill that will offer homebuyer protection.

Submitted by Rep. Sitte

Mr. Chairman and Members of the Committee,

Good Morning. My name is Patricia Rothberg. I have come here this morning to show my support for this bill appearing before you. I am a single mom with 3 children dependent upon me for their emotional stability and personal growth. Due to this, I made the decision to sell our home which was very large and required a great deal of my time and to move into a more manageable one for all of us. Once I found what I felt was a suitable home, I hired a "home inspector" to assess the residence in question. He found a number of very small and insignificant problems. Since I had also requested radon testing this was done. The radon level was higher than acceptable national levels thus requiring the past homeowner to mitigate the home. The mitigation was done by the home inspector, which at the time I felt was somewhat of a conflict of interest, but the problem was resolved. The two major issues that have prompted me to be here have not been as easy or inexpensive to repair. About 10 days following my closing on my current home, the skylight started to leak. I had questioned the home inspector about this directly and he had responded that it was from a past hail storm, but was subsequently repaired to everyone's satisfaction. Upon hiring a general contractor to repair the leak before further damage occurred, he discovered a structural defect in the roofline, a sagging area on the rear of my house and a "boggy" area in the same location. While I do not expect the home inspector to make structural decisions, I do expect him to notice disrupted rooflines. He also had been up in the attic where the trusses were not conjoined properly. I am quite sure he would have seen this, as it was directly in your line of sight as you entered the attic. He of course denied any responsibility which brings into question why pay someone to inspect your home if they take no responsibility for that very same inspection. I did repair the problem, costing me out of pocket approximately \$5000.00. I was advised by my attorney to sue the home inspector for this bill. I was granted a judgment, the home inspector filed for bankruptcy and since the house hearings; I have received an \$84.00 check from the court trustee. I also understand that he is back in the business of doing home inspections. Thus, that is why I am here today. Most people dream of owning their own home one day, and it is often the single largest investment an individual will make. Because of that, we turn to people who proclaim to be proficient in areas that will help us make decisions and we therefore are under the impression that they are also going to protect us by doing the job for which they have been hired. Due to that fact, they become public service professionals. Presently, they are not required to be licensed or to carry errors and omission insurance in the state of North Dakota. It is my impression that it is the responsibility of our elected officials in the house and the senate to safeguard the people of North Dakota and to make their decision based on fact, on the majority of their constituents and to not be swayed by a small number of people against this bill. Thank you.

House Bill 1507 Registering of home inspectors

Rep. Margaret Sitte sponsor

Mister Chairman and members of the committee, I am Representative Margaret Sitte from District 35 in central Bismarck, and sponsor of House Bill 1507. Current law does not address the emerging profession of home inspectors. Any of us could run an ad in the newspaper or phone book saying that we are home inspectors, and we could be out inspecting homes and charging hundreds of dollars for our services within a few days. In fact, as you will hear from some constituents, the home inspectors they hired overlooked major problems that should have been easily seen by a trained person.

This bill would require that home inspectors pass a home inspector examination offered by the American society of home inspectors, the national association of certified home inspectors, the examination board of professional home inspectors, or the international code council. I am also proposing an amendment to include the examination of the national association of home inspectors. The home inspectors would have to submit proof that they have purchased errors and omissions insurance, would pay a \$200 fee the first year with a \$50 renewal each following year, and would register with the Secretary of State.

In preparing this bill, I tried to get home inspectors licensed under realtors, appraisers, and the public service commission, but in the end Sectary of State Al Jaeger was helpful in finding a home for this profession. Since he already registers contractors, we decided to keep the bill simple and to require home inspectors simply to pass a test, buy errors and omissions insurance and register. Because the insurance is quite costly, we checked with realtors and other states on liability insurance or bonding, but we found that only errors and omissions insurance, which costs \$2,400 to \$2,700 per year for a \$300,000 policy, provides a security net for home buyers.

People trust that home inspectors are reputedly trained to find the problems in a home before they buy it. Realtors almost insist upon home inspections as a protection for themselves. What home inspectors really sell is trust. It is the state's duty to ensure that these inspectors are truly trustworthy.

| State | Education Required for Licensure? | Education Required for Continuing Education | Licensing Exam Required? |
|------------------------------------|-----------------------------------|---|--------------------------|
| Alabama | No | No | Yes (ASHI) |
| Alaska | No | 8 hrs every 2 yrs | Yes |
| Arkansas | No | 14 hrs per cycle | Yes (ASHI/NAHI combo) |
| Arizona | 80 hrs plus experience | No | Yes (NAHI) |
| California | No | No | No |
| Colorado | No | No | No |
| Connecticut | 40 hrs plus experience | 20 hrs every 2 yrs | PSI |
| Delaware | No | No | No |
| District of Columbia | No | No | No |
| Florida | No* | No | No |
| Georgia | No | No | No |
| Hawaii | No | No | No |
| Idaho | No | No | No |
| Illinois | 60 hrs | 12 hrs every 2 yrs | Yes |
| Indiana** | Yes | No | No |
| Iowa | No | No | No |
| Kansas | No | No | No |
| Kentucky** | No* | No | No |
| Louisiana | 120 hrs | 20 hrs every year | Yes |
| Maine | No | No | No |
| Maryland | 48 hrs plus experience | 7 hrs every 2 yrs | PSI |
| Massachusetts | Experience | 24 yrs every 2 yrs | Yes |
| Michigan | No | No | No |
| Minnesota | No | No | No |
| Mississippi | 60 hrs | 20 hrs every 2 yrs | Yes |
| Missouri | No | No | No |
| Montana | No | No | No |
| Nebraska | No | No | No |
| Nevada | 40-60 hrs | 20 hrs every 2 yrs | Yes |
| New Hampshire | No | No | No |
| New Jersey | 300 hrs | 40 hrs every 2 yrs | Yes |
| New Mexico | Yes | 40 hrs every 2 yrs | Yes |
| New York** | No | No | No |
| North Carolina | No | 12 hrs every yr | Yes |
| North Dakota | No | No | No |
| Ohio | No | No | No |
| Oklahoma | 50 hrs | 5 hrs every yr | Yes |
| Oregon | Yes plus experience | 30 hrs | Yes |
| Pennsylvania | No | No | No |
| Rhode Island | No | No | No |
| South Carolina | No | No | Yes |
| South Dakota | 40 hrs | No | Yes |
| Tennessee | No | No | Yes |
| Texas | 90 to 320 hrs | 30 to 120 hrs every 2 yrs | Yes |
| Utah | No | No | No |
| Vermont | No | No | No |
| Virginia (voluntary certification) | 35 to 70 hrs | No | yes |
| Washington | No | No | No |
| West Virginia | No | No | No |
| Wisconsin | No | 20 hrs every yr | Yes |
| Wyoming | No | No | No |

*Legislation pending.

**Legislation passed. Rules pending.

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20 licensed



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NORTH DAKOTA HOUSE

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COMMITTEES:
Education
Government and Veterans Affairs

HB 1507 Registration of home inspectors

Mister Chairman and members of the committee, I am Representative Margaret Sitte from District 35 in central-Bismarck, and sponsor of House Bill 1507. Current law does not address the emerging profession of home inspectors. Any of us could run an ad in the newspaper or phone book saying that we are home inspectors, and we could be out inspecting homes and charging hundreds of dollars for our services within a few days. The home inspectors my constituents hired overlooked major problems that should have been easily seen by a trained person.

This bill would require that home inspectors pass a home inspector examination, submit proof that they have purchased errors and omissions insurance, pay a \$200 fee the first year with a \$50 renewal each following year, and register with the Secretary of State.

Secretary of State Al Jaeger was helpful in finding a home for this profession since he already registers contractors. The bill would require an appropriation of \$15,000 for his office to program its database, update its website, and create and maintain the record keeping.

People trust that home inspectors are reputedly trained to find the problems in a home before they buy it. Realtors almost insist upon home inspections as a protection for themselves. What home inspectors really sell is trust. It is the state's duty to ensure that these inspectors are truly trustworthy. I urge you to approve the appropriation for HB 1507.