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To: Senate Commerce Committee
From: Mark Tomb, VP of Governmental Affairs
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Re: Background Briefing on Home Inspector Professional Competency and Financial Responsibility

The Kansas Association of REALTORS® have taken a lead role in working with stakeholders to advance a home inspector bill this legislative session. Stakeholders, including the state's main professional organizations for home inspectors as well as those representing the interests of engineers and architects, have produced a compromise that will be the source of an amendment to SB 168 considered later this week. The bill would create the Kansas Home Inspectors Professional Competency and Financial Responsibility Act. A brief overview of the legislation:

- Re-establishes professional standards for this profession, standards that were allowed to sunset in 2013.
- Requires those that do this type of work to register with the state and establishes penalties for those that fail to register.
- Establishes the Kansas Home Inspectors' Advisory Council to review complaints and serve as an advisory panel for education and testing requirements.
- Empowers the Attorney General to appoint council members and administer the law.
- Establishes minimum educational requirements and installs an ongoing commitment to continuing education.
- Sets fees for different types of registrations.
- Requires meaningful liability and errors and omission insurance requirements as well as surety bond and other financial responsibilities.
- Requires engineers and architects that do home inspections to register but exempts those licensed professionals from the insurance and financial requirements under the law. In addition, any complaints or investigation involving an engineer or architect doing work as a home inspector would be conducted by the Kansas Board of Technical Professions.
- Establishes a sunset of July 1, 2025.

Previous Attempts At Legislative Solutions

Kansas does not currently license or regulate home inspectors after the Kansas Home Inspectors Professional Competence and Financial Responsibility Act expired on July 1, 2013. During the 2008 Legislative Session, the Kansas Legislature approved 2008 HB 2315, which established the Kansas Home Inspectors Professional Competence and Financial Responsibility Act. At that time, this legislation was supported by consumer advocates, professional home inspectors and REALTORS® with the intent of creating a limited amount of regulation over the home inspection industry.

KAR testified at the time that the passage of this legislation was a major step forward in protecting consumers from receiving home inspection services from unqualified individuals and ensuring that the home inspection industry was regulated by the state in a manner that would protect consumers. At the time it was felt that the

act represented a carefully-constructed compromise to protect consumers while at the same time not unduly harming the home inspection industry.

During the 2009 Legislative Session, the Kansas Legislature enacted legislation to make several substantive and technical changes to the act based upon feedback received from members of the home inspection industry. In order to ensure that these changes did not cause unintended consequences and to ensure that the changes were reviewed again by the Kansas Legislature after several years, the conference committee inserted a sunset clause into the statute (July 1, 2013).

During the 2013 Session, legislation was supported by KAR that would have removed the sunset. It was argued by KAR that the “due diligence” period required by the sunset clause has been satisfactorily completed and it was time to remove the sunset clause and permanently extend the provisions contained in the act. A majority of the Kansas Legislature agreed at the time and voted 36-3 in the Senate and 102-17 in the House to pass 2013 SB 37. Unfortunately, Governor Brownback vetoed the bill and a veto override was not attempted.

With the change in administration, KAR examined whether to pursue legislation similar to the previous Kansas home inspectors professional competence and financial responsibility act that was in effect prior to July 1, 2013. The KAR Board of Directors approved of this recommendation at its October meeting in 2019 and we are again pursuing this issue this year.

2019 SB 168

In 2019, KAR supported SB 168, which resurrected the previous statutory framework for licensure of home inspectors. SB 168 received a hearing in the Senate Commerce Committee in 2019. The Kansas Association of Real Estate Inspectors (KAREI) joined with KAR in supporting SB 168. However, there were other home inspectors and professional engineers that initially opposed the legislation. Leadership in the Senate and the Senate Commerce Committee requested that KAR work to reach a consensus with the opponents on legislation. After the hearing, KAR had productive discussions with all of the stakeholders, with some consensus landing on a registration requirement with the Kansas Attorney General, modeled after the roofer registration act. However, important details remained unresolved and the legislation did not move forward during the 2019 session.

Interim Progress

KAR hosted a meeting on July 22, 2019 with representatives from the Kansas Association of Real Estate Inspectors (KAREI), the newly formed Kansas Association of Residential and Commercial Inspectors, International Association of Certified Home Inspectors and the Kansas Society of Professional Engineers. Most of discussion at this meeting centered on a registration approach to home inspector regulation. As a result of this meeting consensus was reached regarding mostly minor changes to the framework in the original version of SB 168.

Conclusion

The Kansas Association of REALTORS® would urge members of the Senate Commerce Committee to support **SB 168**, a bill that would establish standards for the home inspection industry while providing significant protections for consumers.