

SENATE BILL No. 168

By Committee on Commerce

2-13

1 AN ACT enacting the Kansas home inspectors professional competency
2 and financial responsibility act; establishing the home inspectors
3 license fee fund.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. This act shall be known and may be cited as the Kansas
7 home inspectors professional competency and financial responsibility act.

8 Sec. 2. As used in sections 1 through 14, and amendments thereto:

9 (a) "Act" means the Kansas home inspectors professional competency
10 and financial responsibility act.

11 (b) "Applicant" means any person who is applying for a license or
12 renewal of a license under this act.

13 (c) "Board" means the Kansas home inspectors licensing board.

14 (d) (1) "Home inspection" means a non-invasive limited visual
15 examination of a residential dwelling of not more than four attached units,
16 or any portion thereof, designed to identify material defects at the time of
17 the inspection of three or more of the following readily accessible systems
18 and components:

19 (A) Heating systems;

20 (B) cooling systems;

21 (C) electrical systems;

22 (D) plumbing systems;

23 (E) structural components;

24 (F) foundations;

25 (G) roof coverings;

26 (H) exterior and interior components; and

27 (I) any other components and systems that are part of the residential
28 dwelling and included in the standards of practice followed by the home
29 inspector.

30 (2) The term "home inspection" also includes any consultation
31 regarding the property that is represented to be a home inspection or that is
32 described by any similar term.

33 (3) The term "home inspection" does not include:

34 (A) A compliance inspection for any code or governmental
35 regulation;

36 (B) an examination for the conditions and operation of kitchen-type

1 appliances, on-site water supplies or wells, private waste systems, the
2 determination of the presence of wood-destroying organisms or pests, or
3 the presence of fungi, mold, bacteria, asbestos, lead-based paint, gases or
4 conditions of air quality; and

5 (C) an examination and evaluation of only two or fewer of the
6 components listed in subsection (c)(1).

7 (e) "Home inspection report" means a written report on the results of
8 a home inspection issued for a home inspection. The report shall include
9 the following:

10 (1) A clear identification and description of those systems, structures
11 or components that were inspected;

12 (2) a clear identification and description of those systems, structures
13 or components designated to be inspected under the standards of practice
14 approved by the board but that were not inspected, and the reason why
15 they were not inspected;

16 (3) a clear identification and description of any material defects found
17 to be in need of repair, including any recommendations for further
18 evaluation;

19 (4) a completed pre-inspection agreement; and

20 (5) the name of the inspection company, name of the inspector
21 conducting the inspection, the inspector's license number and the
22 inspection company's contact information.

23 (f) "Home inspector" means an individual who performs a home
24 inspection as defined in this act.

25 (g) "Licensee" means any person licensed as a home inspector under
26 the Kansas home inspectors professional competence and financial
27 responsibility act.

28 (h) "Material defect" means any condition that significantly affects
29 the value, habitability or safety of the dwelling. Style, cosmetic defects or
30 aesthetics shall not be considered in determining whether a system,
31 structure or component is materially defective.

32 (i) (1) "Pre-inspection agreement" means a written contract between a
33 customer and a home inspector to conduct a home inspection. The pre-
34 inspection agreement shall contain, at a minimum, the following
35 information:

36 (A) A clear description of the scope of the home inspection;

37 (B) a clear description of any limitations on the liability of the home
38 inspector for any errors and omissions that may arise during the home
39 inspection; and

40 (C) an identification of the standards of practice approved by the
41 board that the home inspector will be following during the home
42 inspection.

43 (2) Inspections completed for a bank, financial institution, relocation

1 company, or other entity that is purchasing the home as part of a
2 relocation, foreclosure, or commercial investment may forgo the
3 requirement for the pre-inspection agreement, provided that, the inspection
4 report clearly states in bold size, 14-font or larger type that: "This
5 inspection report was created for the exclusive use of the (list commercial
6 client's name) and is not to be used for the transfer of this property to the
7 end-user occupant and should not be used or relied upon by individuals
8 purchasing the property."

9 (j) "Readily accessible" means available for visual inspection without
10 requiring the moving of personal property, dismantling, use of destructive
11 measures or actions that would likely involve risk to persons or property.

12 Sec. 3. (a) There is hereby established the Kansas home inspectors
13 licensing board. The purpose of the board is to administer and enforce the
14 provisions of the Kansas home inspectors professional competency and
15 financial responsibility act, promote consumer protection, ensure
16 professional competency and ensure the presence of a viable home
17 inspection industry in this state.

18 (b) The board shall consist of five members to be appointed by the
19 governor as follows:

20 (1) Three members shall be home inspectors who have actively been
21 engaged in the practice of home inspections for at least five consecutive
22 years immediately preceding their appointment and have completed at
23 least 1,000 fee-paid home inspections; and

24 (2) two members shall be at-large members, neither of whom shall be
25 a home inspector.

26 (c) Prior to September 1, 2019, the governor shall appoint the initial
27 board members as specified in subsection (b). The board shall hold its first
28 meeting prior to January 1, 2020, and elect a chairperson, vice-chairperson
29 and secretary, meeting the qualification requirements of subsection (f).
30 Following the first meeting of the board, the newly elected chairperson
31 shall serve for a term of three years, the vice-chairperson shall serve for a
32 term of three years, the secretary shall serve for a term of two years, and
33 the remaining board members shall serve for terms of one year. After these
34 initial terms have been completed, the board members shall serve terms as
35 specified in subsection (d). The length of service of any member as an
36 officer shall be one year as provided in subsection (f).

37 (d) Board members shall serve three-year terms, with no board
38 member serving more than two consecutive terms of office. Upon the
39 expiration of the term of office of any member, the governor shall appoint
40 a successor, meeting the qualifications under this act. Each board member
41 shall serve until a successor is appointed and qualified. There shall be at
42 least one board member from each congressional district in the state of
43 Kansas. If a suitable and qualified candidate from a district is not readily

1 available or willing to serve, the governor may make appointments from
2 the other congressional districts. In such case, one member, selected by the
3 governor, shall serve a conditional term until such time as a qualified
4 member from the unrepresented district is appointed.

5 (e) In the event of a vacancy in the membership of the board for any
6 reason other than the expiration of a board member's term of office, the
7 governor shall appoint a successor meeting the qualifications of this act to
8 fill the unexpired term.

9 (f) At the first board meeting in 2021, and each year thereafter, the
10 board shall elect from its members a chairperson, vice-chairperson and
11 secretary. Officers shall serve for 12 months and until a successor is
12 elected. A member may serve a maximum of two consecutive terms of
13 service as an officer in each respective position. Both the chairperson and
14 the vice-chairperson shall be licensed home inspectors. The officers shall
15 have the following duties:

16 (1) The chairperson shall preside over all meetings.

17 (2) The vice-chairperson shall preside over meetings in the absence of
18 the chairperson.

19 (3) The secretary shall:

20 (A) Prepare, publish and maintain the minutes of the board meetings;

21 (B) prepare correspondence and provide administrative support as the
22 chairperson may direct or as may be prescribed in the rules and regulations
23 of the board; and

24 (C) maintain the records of the board.

25 (g) Subject to appropriation acts, the board may appoint executive
26 staff, who shall be in the unclassified service. Executive staff shall receive
27 an annual salary, which shall be fixed by the board and approved by the
28 governor.

29 (h) Subject to appropriation acts, the board may employ other
30 employees, who shall be in the classified service or enter into contracts
31 with organizations, as may be necessary, and make such other expenditures
32 as necessary to properly carry out the provisions of this act.

33 (i) Each board member shall be paid compensation, subsistence
34 allowances, mileage and other expenses as provided for in K.S.A. 75-
35 3223, and amendments thereto.

36 (j) The board shall hold meetings in such places and at such times as
37 determined by the board or at the request of two or more of its members. A
38 majority of the membership of the board shall constitute a quorum.

39 Sec. 4. The board shall have the following duties and powers under
40 this act:

41 (a) Administer and enforce the provisions of the act;

42 (b) approve and adopt a standard of practice and a code of ethics;

43 (c) license qualified applicants as home inspectors pursuant to the act;

1 (d) make all necessary investigations into the qualifications of or
2 allegations of misconduct against an applicant and licensee. In connection
3 with any investigation, the board or its duly authorized agents or
4 employees shall, at all reasonable times, have access and the right to
5 examine and copy any document, report, record or other physical evidence
6 of any licensed home inspector or any document, report, record or other
7 evidence maintained by and in the possession of any licensed home
8 inspector;

9 (e) require the attendance and testimony of any licensed home
10 inspector or the production for examination or copying of documents or
11 any other physical evidence, if such evidence relates to qualifications for
12 licensure or allegation of misconduct of an applicant or licensee;

13 (f) set standards and approve examinations to determine the
14 qualifications of applicants for a license or license renewal;

15 (g) adopt any rules and regulations necessary to carry out the
16 provisions of the act;

17 (h) set standards for approval and approve or disapprove courses of
18 study, educational providers and providers of continuing education and
19 continuing education courses;

20 (i) contract with agencies or consultants as necessary to assist the
21 board in obtaining information about educational providers;

22 (j) establish guidelines for reciprocal licensing for inspectors from
23 other jurisdictions with licensing requirements deemed by the board to be
24 equal to or more stringent than the requirements of this act; and

25 (k) set fees for licenses, renewal licenses and licenses granted on the
26 basis of reciprocity.

27 Sec. 5. (a) Applications for original licenses and renewals of licenses
28 shall be made in writing or submitted electronically, as approved by the
29 board, to the board on forms approved by the board and shall be
30 accompanied by the appropriate fees prescribed by the board.

31 (b) The board may deny, suspend or revoke a license, or may impose
32 probationary conditions on a licensee or applicant, if the licensee or
33 applicant has engaged in any of the following conduct:

34 (1) Made a materially false or fraudulent statement in an application
35 for a license or license renewal;

36 (2) been convicted of or plead guilty or nolo contendere in a court of
37 competent jurisdiction to any misdemeanor involving dishonesty;

38 (3) intentionally falsified a home inspection report;

39 (4) perform any of the following acts as part of a home inspection:

40 (A) Inspect, for a fee, any property in which the home inspector has
41 any personal or financial interest, unless the interest is disclosed in writing
42 to the client before the home inspection is performed and the client signs
43 an acknowledgment of receipt of the disclosure;

1 (B) offer or deliver any commission, referral fee or any portion of an
2 inspection fee for the referral of any business to the home inspector; and

3 (C) accept an engagement to perform a home inspection or to prepare
4 a home inspection report in which the employment itself or the fee payable
5 for the inspection is contingent upon the conclusions of the home
6 inspection report, pre-established or prescribed findings or the closing of
7 an underlying real estate transaction;

8 (5) include as a term or condition, in an agreement to conduct a home
9 inspection, any provision that disclaims or limits the liability of the
10 licensed home inspector to less than \$2,000 in the aggregate for each home
11 inspection;

12 (6) fail to provide, when possible, a pre-inspection agreement to a
13 client;

14 (7) fail to substantially follow the standards of practice and code of
15 ethics established by the board;

16 (8) fail to respond, as requested by the board, to any summons for
17 attendance and testimony or to produce documents or any other physical
18 evidence during an investigation into the qualifications of or allegations of
19 misconduct of an applicant or licensee; and

20 (9) violate any provision of the act or the rules and regulations
21 adopted by the board pursuant to this act.

22 (c) (1) Except as provided in paragraph (2), the board shall refuse to
23 issue a license to an applicant or licensee if the applicant or licensee has
24 entered a plea of guilty or nolo contendere to, or has been convicted of:

25 (A) (i) An offense that upon conviction requires registration of the
26 offender pursuant to the Kansas offender registration act; or

27 (ii) any offense under the law of another jurisdiction that upon
28 conviction requires registration of the offender as a sexual offender under
29 the law of the other jurisdiction, or that would constitute an offense under
30 Kansas law that upon conviction requires the offender to register pursuant
31 to the Kansas offender registration act; or

32 (B) (i) Any felony under Kansas law; or

33 (ii) any offense under the law of any other jurisdiction that would
34 constitute a felony under Kansas law.

35 (2) The board may grant an original license pursuant to subsection (d)
36 if the applicant's or licensee's application is received at least:

37 (A) 15 years after the date of the applicant's or licensee's discharge
38 from postrelease supervision, completion of any nonprison sanction or
39 suspension of the imposition of the sentence resulting from any plea of
40 guilty or nolo contendere to or conviction of any offense specified in
41 subsection (c)(1)(A); or

42 (B) five years after the date of the applicant's discharge from
43 postrelease supervision, completion of any nonprison sanction or

1 suspension of the imposition of the sentence resulting from any plea of
2 guilty or nolo contendere to or conviction of any offense specified in
3 subsection (c)(1)(B), whichever is applicable.

4 (3) For the purposes of this subsection, "postrelease supervision"
5 shall have the meaning ascribed to it in K.S.A. 2018 Supp. 21-6803, and
6 amendments thereto.

7 (4) For the purposes of this subsection, "nonprison sanction" shall
8 have the meaning ascribed to it in K.S.A. 2018 Supp. 21-6803, and
9 amendments thereto.

10 (d) (1) The board may renew or grant an original license to an
11 applicant or licensee who has entered a plea of guilty or nolo contendere
12 to, or has been convicted of any crime listed in subsection (c)(1) if the
13 applicant or licensee presents to the board satisfactory proof that the
14 applicant or licensee now bears a good reputation for honesty,
15 trustworthiness, integrity and competence to transact the business of a
16 licensed home inspector in such a manner as to safeguard the interest of
17 the public. The burden of proof shall be on the applicant or licensee to
18 present such evidence to the board.

19 (2) In determining whether the applicant or licensee presently has a
20 good reputation as required by paragraph (1), the board shall consider the
21 following factors:

22 (A) The extent and nature of the applicant's or licensee's past criminal
23 activity;

24 (B) the age of the applicant or licensee at the time of the commission
25 of the crime or crimes;

26 (C) the amount of time elapsed since the applicant's or licensee's last
27 criminal activity;

28 (D) the conduct and work activity of the applicant or licensee prior to
29 and following the criminal activity;

30 (E) evidence of the applicant's or licensee's rehabilitation or
31 rehabilitative effort; and

32 (F) any other evidence offered by the applicant of the applicant's or
33 licensee's present fitness for a license.

34 (e) In addition to, or in lieu of any other administrative, civil or
35 criminal remedy provided by law, if the board determines after notice, and
36 an opportunity for a hearing in accordance with the Kansas administrative
37 procedures act, that a licensee has violated any provision of this act or any
38 rule and regulation adopted hereunder, the board may impose on such
39 licensee a civil fine not to exceed \$500 for each violation.

40 (f) All proceedings pursuant to this section shall be conducted in
41 accordance with the provisions of the Kansas administrative procedure act.
42 Persons aggrieved by a final order of the board may appeal pursuant to the
43 provisions of the Kansas judicial review act.

1 Sec. 6. (a) The board shall set reasonable fees as provided for by this
2 act, except for limitations on the amounts of certain fees as follows:

- 3 (1) For an application for an original license, \$200;
- 4 (2) for renewal of a license, \$200;
- 5 (3) for late renewal, an additional amount not to exceed \$50;
- 6 (4) for reinstatement of an expired or revoked license, \$300; and
- 7 (5) for a duplicate copy of a license certificate, \$25.

8 (b) The board may charge a fee not to exceed \$500 to review an
9 application packet submitted for approval by an education provider for
10 pre-license courses or a fee not to exceed \$50 to review an application
11 packet for an education provider for continuing education classes.

12 Sec. 7. (a) Whenever any person has engaged in any act or practice
13 that constitutes a violation of this act or the rules and regulations of the
14 board, the board may institute an action in the district court of the county
15 in which the person resides or in the district court in the county in which
16 such act or practice occurred for an injunction to enforce compliance with
17 this act or the rules and regulations. The board shall not be required to give
18 any bond or pay any filing fee for initiating the action. Upon a showing
19 that the person has engaged in any act or practice in violation of this act or
20 the rules and regulations, the court may enjoin such acts or practices and
21 may make any orders necessary to conserve, protect and disburse any
22 funds involved. In addition to any other civil penalties or remedies, a
23 conviction of a violation of this act shall constitute a class A misdemeanor.

24 Sec. 8. The attorney general shall represent the board in all actions
25 and proceedings brought by or against the board, except that the board
26 may hire independent counsel in addition to, or in lieu of, representation
27 by the attorney general. All fees and expenses of any independent counsel
28 shall be paid out of the home inspectors license fee fund.

29 Sec. 9. The board shall remit all moneys received by the board from
30 fees, charges or penalties to the state treasurer in accordance with the
31 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
32 each such remittance, the state treasurer shall deposit the entire amount in
33 the state treasury to the credit of the home inspectors license fee fund,
34 which is hereby established. All expenditures from the home inspectors
35 license fee fund shall be made in accordance with appropriation acts upon
36 warrants of the director of accounts and reports issued pursuant to
37 vouchers approved by the board or by a person or persons designated by
38 the board.

39 Sec. 10. (a) On and after January 1, 2020, any individual performing
40 home inspections as defined in this act shall hold a current and valid
41 license issued by the board.

- 42 (b) An applicant for a license or license renewal must:
 - 43 (1) Be at least 18 years of age;

1 (2) submit proof of current general liability insurance coverage in an
2 amount of \$100,000 or more to the board;

3 (3) demonstrate proof of financial responsibility to the board by the
4 submission of one of the following:

5 (A) A policy of errors and omissions insurance coverage;

6 (B) a surety bond in an amount not less than \$10,000. Each applicant
7 for a license or license renewal electing to provide the board a surety bond
8 as a condition of license, shall file with the board a surety bond in the
9 amount of not less than \$10,000 per year. Such bond shall be issued by a
10 corporate surety authorized to do business in this state. The surety bond
11 shall state the effective date and the expiration date, if available. The
12 applicant shall be named as principal. The bond shall be to the state of
13 Kansas and shall be conditioned upon the applicant faithfully performing
14 all contracts entered into by the applicant, complying with all provisions of
15 this act and following all rules and regulations of the board. Regardless of
16 the number of claims made against the bond or the number of years the
17 bond remains in force, the aggregate liability of the surety shall in no event
18 exceed the amount of the bond. The bond may be terminated at any time
19 by the surety upon sending 30 days' notice in writing to the principal, the
20 obligee and the board;

21 (C) an irrevocable letter of credit not less than \$10,000, issued by a
22 bank that is insured by the federal deposit insurance corporation or its
23 successor, initially issued for a term of at least one year and that by its
24 terms is automatically renewed at each expiration date for at least an
25 additional one-year term, unless at least 30 days prior written notice of
26 intention not to renew is provided to the board; or

27 (D) proof of the maintenance of a minimum balance of \$10,000 in an
28 escrow account in a Kansas financial institution, as defined in K.S.A. 16-
29 117, and amendments thereto, provided that the escrow account shall
30 maintain the minimum balance through the term of the licensee's license as
31 a home inspector. The board shall be notified in writing by the financial
32 institution within 10 days if the amount in the escrow account falls below
33 the \$10,000 minimum balance. Upon notification, the board shall suspend
34 the licensee's license as a home inspector until the escrow account
35 minimum balance is restored to \$10,000;

36 (4) have successfully completed and passed a proctored written or
37 electronic exam that has been approved by the board and psychometrically
38 evaluated, unless the applicant was previously registered by the state of
39 Kansas as a home inspector under the provisions of K.S.A. 58-4501
40 through 58-4514, as in effect prior to July 1, 2013.

41 (5) annually, obtain a minimum of 16 hours of continuing education
42 through courses approved by the board. No continuing education is
43 required for initial applicants applying after July 1 of any year for that

1 year;

2 (6) shall retain a copy of each of the following documents, pertaining
3 to each home inspection performed by or at the direction of the home
4 inspector, for a period of 24 months commencing on the first day of the
5 month in which the document is issued or on the expiration date of the
6 written agreement for the home inspection, whichever is later:

7 (A) The home inspection agreement;

8 (B) the home inspection report; and

9 (C) any other information prescribed by the rules and regulations of
10 the board; and

11 (7) have satisfied one of the following requirements:

12 (A) Have successfully completed and passed a course of study of at
13 least 90 hours of training to include: (i) A minimum of 60 hours of
14 classroom and field training approved by the board; and (ii) up to 30
15 hours, which may be through distance learning, offered by an educational
16 provider approved by the board; or

17 (B) have been actively and continually engaged in the practice of
18 conducting home inspections for not less than two years prior to July 1,
19 2019, and have completed not fewer than 250 fee-paid home inspections.

20 (c) The board, by rules and regulations, shall establish the date for
21 license renewals, which may be on an annual or biennial basis. A licensee
22 that has not renewed the licensee's license by the expiration date may not
23 conduct home inspections until the license is renewed.

24 (d) The board may grant inactive status to a licensee who meets all
25 the requirements for renewal except for completion of continuing
26 education upon written request of the licensee and the payment of an
27 inactive status fee not to exceed \$50. The license shall become active upon
28 approval of the board following completion of all continuing education
29 requirements and payment of the renewal fee. A licensee whose license is
30 inactive shall not conduct home inspections during the time the license is
31 in inactive status.

32 (e) The board may reinstate a license that has been expired or revoked
33 upon application on a form provided by the board and payment of any
34 required fees established by the board. The board may establish standards
35 for reinstatement, including a requirement that an applicant, whose license
36 was revoked or that has been expired for more than one year, successfully
37 completes an approved examination.

38 (f) (1) As part of an application for an original license or in
39 connection with any investigation of any licensee, the board shall require
40 an applicant or a licensee to be fingerprinted and submit to a state and
41 national criminal history record check. The fingerprints shall be used to
42 identify the individual and to determine whether the individual has a
43 record of criminal history in this state or other jurisdiction. The board shall

1 submit the fingerprints to the Kansas bureau of investigation or the federal
2 bureau of investigation, as necessary, for the state and national criminal
3 history record check. The commission shall use the information obtained
4 from fingerprinting and the criminal history record check for purposes of
5 verifying the identification of the person and in the official determination
6 of the qualifications and fitness of the person to be issued or to maintain a
7 license.

8 (2) Local and state law enforcement officers or an authorized third-
9 party vendor shall assist the board in taking and processing fingerprints.

10 (3) The board may fix and collect a nonrefundable fee from an
11 applicant or licensee in an amount set by the board as necessary to
12 reimburse the board or local or state law enforcement for the cost of
13 fingerprinting, the criminal history record check and administrative costs.

14 (4) Employees of a licensed home inspector who will be on site
15 during an inspection must be under the direct control and supervision of
16 the licensed inspector, must provide fingerprints and submit to a criminal
17 history record check pursuant to this subsection and must meet the
18 requirements regarding criminal history for a licensee pursuant to section
19 5, and amendments thereto. Tradesmen or contractors performing a single
20 component or single system evaluation, or a combination of any two
21 systems or components, as provided by the rules and regulations of the
22 board, and while acting within the scope of that occupation and as an
23 independent contractor on behalf of the licensed home inspector, shall be
24 exempt from the criminal history record check requirement.

25 (5) License renewals shall not require a criminal history record check
26 pursuant to this subsection, however applicants shall be required, as part of
27 the renewal process, to sign an affirmation that they have not been
28 convicted of a crime described in section 5, and amendments thereto, since
29 the initial application.

30 Sec. 11. This act shall apply to all individuals who conduct home
31 inspections for compensation, but shall not apply to the following
32 individuals who are exempted from the provisions of the act:

33 (a) A tradesman or contractor performing a single component or
34 system evaluation, or a combination of any two components or systems as
35 identified in the rules and regulations of the board, while acting within the
36 scope of that occupation;

37 (b) an individual employed by the state of Kansas or a political
38 subdivision of the state who, within the scope of such employment and in
39 the discharge of such public duties, inspects property or buildings for
40 compliance with requirements safeguarding life, health or property;

41 (c) an individual licensed by the state of Kansas as an architect while
42 acting within the scope of that license;

43 (d) an individual licensed by the state of Kansas as a professional

1 engineer while acting within the scope of that license;

2 (e) an individual licensed by the state of Kansas as a real estate
3 appraiser while acting within the scope of that license;

4 (f) an individual licensed by the state of Kansas as a real estate broker
5 or salesperson while acting within the scope of that license;

6 (g) an individual employed as an insurance adjuster while acting
7 within the scope of that occupation;

8 (h) an individual licensed as a manufactured home manufacturer
9 while acting within the scope of that license;

10 (i) an individual employed by a manufactured home manufacturer
11 while acting within the scope of that occupation;

12 (j) a modular home manufacturer or modular home manufacturer's
13 representative reviewing a residential dwelling built by the manufacturer
14 for the purpose of evaluating the residential dwelling;

15 (k) an individual licensed as a manufactured home dealer while acting
16 within the scope of that license;

17 (l) an individual employed as a manufactured home installer while
18 acting within the scope of that occupation;

19 (m) an individual licensed by the state of Kansas as an insurance
20 agent while acting within the scope of that license;

21 (n) a homebuilder or homebuilder's representative reviewing a
22 residential dwelling built by the homebuilder for the purpose of evaluating
23 the residential dwelling;

24 (o) an individual providing services as a pest exterminator or
25 chemical applicator while acting within the scope of that occupation and
26 not providing services that would constitute a home inspection under this
27 act; and

28 (p) an individual who is not licensed as a home inspector, may assist
29 a licensed home inspector in the performance of an inspection provided
30 that the person is supervised at the inspection site by a licensed home
31 inspector, and any home inspection report rendered in connection with the
32 home inspection is reviewed and signed by the licensed home inspector.
33 An individual who is an employee or an independent contractor of the
34 licensed home inspector shall submit to a criminal history record check as
35 provided in section 10, and amendments thereto, and meet the
36 requirements regarding criminal history applicable to a licensee, as
37 provided by section 5, and amendments thereto, except as provided in
38 section 10(f)(4), and amendments thereto.

39 Sec. 12. (a) It shall be unlawful for an individual to perform a home
40 inspection as defined in section 2, and amendments thereto, without being
41 licensed under the Kansas home inspectors professional competency and
42 financial responsibility act.

43 (b) Violation of this section is a class A nonperson misdemeanor.

1 Sec. 13. (a) It is the duty of all home inspectors licensed under this
2 act to conduct home inspections with the degree of care that a reasonably
3 prudent home inspector would exercise under the circumstances.

4 (b) All home inspections shall be conducted according to a standard
5 of practice and a code of ethics approved by the board.

6 (c) No licensed home inspector may include, as a term or condition in
7 an agreement to conduct a home inspection, any provision that disclaims
8 the liability for any errors and omissions that may arise during a home
9 inspection, or limits the amount of damages for liability for any errors and
10 omissions that may arise during a home inspection to less than \$2,000 in
11 the aggregate for each home inspection. Any term or condition or
12 limitation setting the amount of damages for liability for any errors and
13 omissions that may arise during a home inspection at an amount greater
14 than \$2,000 must be provided to the customer in writing to be in effect.

15 (d) An action to recover damages for any act or omission of a
16 licensed home inspector relating to a home inspection or a home
17 inspection report must be brought not more than 12 months from the date
18 the home inspection was performed and may be initiated only by the client
19 for whom the home inspection or the home inspection report was made.

20 (e) In any action to recover damages for any error or omission of a
21 licensed home inspector relating to a home inspection or home inspection
22 report, a licensed home inspector is liable for any errors and omissions that
23 may arise during a home inspection in an amount not to exceed \$2,000 in
24 the aggregate for each home inspection, or to the amount in the pre-
25 inspection agreement to conduct a home inspection, if greater than \$2,000
26 in the aggregate for each home inspection, provided that a licensed home
27 inspector provides the client with a clear written description in the pre-
28 inspection agreement of any greater limitations on the liability of the
29 licensed home inspector for any errors and omissions that may arise during
30 the home inspection.

31 (f) All licensed home inspectors shall make every effort to provide
32 the client with a written pre-inspection agreement prior to the home
33 inspection.

34 Sec. 14. (a) No individual shall present themselves as a home
35 inspector unless the individual has complied with the provisions of this
36 act. Individuals who are exempt from licensure under this act, or whose
37 actions are considered to be a home inspection under this act, may not
38 present themselves as home inspectors or use words or titles that may
39 reasonably be confused with the title of "home inspector" or "house
40 inspector," unless they are licensed as a home inspector pursuant to the act.

41 (b) All contracts, correspondence, reports and other documents
42 prepared by an individual performing home inspections under this act shall
43 indicate the home inspector's license number, name and contact

1 information, as licensed with the board.

2 Sec. 15. This act shall take effect and be in force from and after its

3 publication in the statute book.