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## Luther S. Olsen

State Senator

14th District

**TO:** Senate Committee on Natural Resources & Energy

**FROM:** Senator Luther Olsen

**DATE:** January 17, 2018

**SUBJECT:** Testimony in favor of Senate Bill 687.

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Thank you Chairman Cowles and the Senate Committee on Natural Resources and Energy for holding a hearing and allowing me to testify in favor of Senate Bill 687.

Currently, sellers of residential property and vacant land are required to complete a disclosure report relating to their property. The current reports are arranged in confusing formats and can be difficult to understand. This legislation creates a user-friendly redesign of the residential real estate condition and vacant land disclosure reports.

Additionally, this legislation requires new disclosures including knowledge of burial sites, methamphetamine production, deed restrictions, and easements. These updates are needed as we continue to be responsive to issues of importance.

Furthermore, there are differing definitions of "defect" in statute which creates disputes between parties during real estate transactions about whether a condition of the property noted by a home inspector constitutes a "defect". In order to prevent these types of disputes, this bill clarifies the definition of "defect" in the home inspector statute to bring consistency under the offer to purchase and the home inspector statutes.

The Wisconsin Realtors Association and the Wisconsin Association of Home Inspectors are in support of this legislation.

Thank you, members. I ask for your support and would be more than happy to answer any questions.



**To:** Senate Committee on Natural Resources and Energy  
**From:** Cori Lamont, Director of Corporate and Regulatory Affairs  
Tom Larson, Senior Vice President of Legal and Public Affairs  
**Date:** January 17, 2018  
**RE:** SB 687/AB 812– relating to: real estate disclosure reports and reports of home inspectors

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The Wisconsin REALTORS® Association (WRA) supports SB 687/AB 812. The objective of this bill is 1) to provide a more user-friendly report for a seller to complete when selling residential or vacant land and 2) to provide definitional consistency in the transaction between the home inspector report and offer to purchase.

### **REAL ESTATE DISCLOSURE REPORTS**

Generally, Wisconsin statute requires sellers of residential property and vacant land to complete a disclosure report relating to their property. This applies to sellers selling their own property as well as those who have engaged a real estate agent to sell their vacant land or home. Currently, Wis. Stat. Ch. 709 details what this report must include.

#### **Issue**

The current structure of the report is not written in a user-friendly manner and is not logically arranged for a layperson to complete independently without regularly consulting legal counsel.

#### **SB 687/AB 812**

- Redesigns the residential real estate condition and vacant land disclosure reports, to create a more seller-friendly document to complete
- Provides easy-to-read language
- Categorizes compatible disclosures into groups such as structural and mechanical, environmental, land use, taxes, special assessments
- Offers situational disclosure examples as to the types of defects might be included
- Includes new disclosures, such as if the seller is aware of burial sites on the property; water quality issues caused by unsafe concentrations of, unsafe conditions relating to lead; aware of rented items located on the property; whether the property has been assessed under use value and if there are deferred payments; if the property is enrolled in the Forest Crop law, Managed Forest Law, the Conservation Reserve Program; the number of years the owner has owned the property.
- Contains consistency between forms by adding some disclosures previously included on one but not the other. For example, the residential condition report now asks the seller about the manufacture of methamphetamines on the property, while the vacant land disclosure report now asks the seller if they aware of any deed restrictions on the property or if there are any easements other than recorded utility easements.

These updates offer sellers of residential and vacant land properties a straightforward, user-friendly report to meet their statutory obligation.

## **DEFINITIONAL CONSISTENCY IN THE OFFER AND HOME INSPECTOR REPORT**

In a typical real estate transaction the buyer writes an offer that includes a home inspection contingency. The home inspector then provides the buyer a written report detailing the inspector's observations.

### **Issue**

However, one of the biggest disputes between the parties in a real estate transaction is whether a condition of the property noted by the home inspector constitutes a "defect." Whether it's a leaky basement or a cracked window pane, buyers and sellers often disagree about the significance of the condition.

Under current Wisconsin law, this common dispute is made more problematic by the fact the definition of "defect" in the standard offer to purchase is different from the definition of "defect" used in most home inspection reports.

### **SB 687/AB 812**

- Creates a definition of "defect" in the home inspector statute consistent with the definition in the offer to purchase
- Provides if a home inspector describes something as a "defect" in their report it must meet the new statutory definition of "defect"
- Authorizes the Department of Safety and Professional Services (DSPS) to promulgate rules with emergency authority, if necessary

The WRA and the Wisconsin Home Inspectors Association worked together to create the definition of "defect" for the inspector report that compliments the definition of "defect" in the offer to purchase.

We respectfully encourage you to support SB 687/AB 812.



**Wisconsin  
Association of  
Home Inspectors, Inc.**

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January 17, 2018

To: Senate Committee on Natural Resources and Energy  
Senator Robert Cowles, Chairman

From: Wisconsin Association of Home Inspectors, Inc. (WAHI)  
Andrew Helgeson, President  
Julie Arnstein, Executive Director

RE: **Support of Senate Bill 687**

The Wisconsin Association of Home Inspectors, Inc. (WAHI) is a voluntary, not for profit, professional association dedicated to promoting and developing the home inspection industry within the State of Wisconsin. WAHI is the leading organization in Wisconsin working with home inspectors, as well as contractors and service providers in related fields.

WAHI has worked collaboratively with the Wisconsin Realtors Association (WRA) over the past year to determine new language that can be used effectively by home inspectors and realtors when involved in the transfer of real estate. WAHI and WRA are in agreement that, in order to best serve the general public, the language used to define the term "defect" should match in the State Statute and the standard Offer to Purchase form.

WAHI is in support of the new language as it will align documents used by the WRA with home inspection reports to reduce ambiguity concerning defects and hazards. In doing this it will enable realtors and home inspectors to speak more clearly on these matters.

As stated in the proposal, a home inspector would not use the term "defect" in a written report unless the condition of the component is consistent with the new language.

On behalf of the Wisconsin Association of Home Inspectors, Inc. we ask for your support of Senate Bill 687. Thank you for your consideration.