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# ROBERT BROOKS

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STATE REPRESENTATIVE • 60<sup>TH</sup> ASSEMBLY DISTRICT

## Hearing Testimony

### Senate Committee on Insurance, Licensing and Forestry

February 17, 2021

Chairman Felzkowski and members of the Senate Committee on Insurance, Licensing, and Forestry, thank you for affording me with the opportunity to testify on behalf of Senate Bill 74, relating to: the licensure of home inspectors.

It is imperative to denote that an analogous version of this bill was passed unanimously last session by both the Senate Housing and Utilities Committee and Assembly Committee on Regulatory Licensing Reform. What is more, the bill was passed via voice vote in the Assembly.

In Wisconsin, the home-buying process is well-regulated from beginning to end. However, one of the most important parts of the process has been lacking in oversight. A 2018 survey found that the "inspection results were the second leading cause for failure to close." The condition of the home would certainly be a factor as well. Senate Bill 74, however, by strengthening the training requirements for home inspectors, would provide prospective buyers with peace of mind and comfort knowing one of the biggest purchases of their lives has been inspected by a thoroughly trained inspector.

Senate Bill 74 protects residential customers by establishing consistency in the home inspection process and home inspection report. The bill further guards the buying public by modifying when a new home inspector must complete training.

Home inspectors are currently required to inspect the property and identify items defined statutorily as "defects." However, the law does not require the home inspector to call those items "defects."

Senate Bill 74 creates consistency in consumer expectations in the home inspection by:

- Modifying the definition of what is considered to be a "defect" for the purposes of a report submitted by the home inspector to the client
- Requiring home inspectors to note "defects" found during the inspection to be labeled as such in the report, if they satisfy the legal definition of a "defect."



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- Requiring the inspection report to contain a number of elements and statements for the report, including a summary page with required statements for the buyer's edification.
- Acknowledging that home inspectors are not more vulnerable to liability by requiring the word "defect" to be used in the inspection report.

In Wisconsin, as long as an individual does not have a disqualifying criminal record, after passing two exams (the closed-book national examination and Wisconsin-specific open-book exam), and registering with the Department of Safety and Professional Services, he or she can become a home inspector. Generally, current law requires an individual to be registered with DSPS to act as a home inspector, or represent himself or herself to be a home inspector.

Senate Bill 74 retains the requirement that home inspectors be registered, as under current law. However, the bill:

- Requires a new home inspector registrant to complete forty hours of instruction before taking the examination.
- Exempts newly registered home inspectors from continuing education requirements for the first two renewals of a registration. Current DSPS rules exempt newly registered home inspectors from continuing education requirements for their first renewal period of a registration.
- Provides reciprocal registration of home inspectors licensed in other states who have comparable or more stringent requirements.
- Repeals a provision allowing DSPS to use an alternative professional disciplinary procedure for the home inspector.

This legislation is supported by the Wisconsin REALTORS Association, All American Association of Home Inspectors, and the International Association of Certified Home Inspectors. Additionally, we worked closely with the Wisconsin Association of Home Inspectors and the Department of Safety and Professional Services, on Senate Bill 74.

I would be happy to answer any questions you might have.



**To:** Senate Committee on Insurance, Licensing and Forestry

**From:** Cori Lamont, Senior Director of Legal and Public Affairs  
Tom Larson, Executive Vice President

**Date:** February 17, 2021

**RE:** SB 74/AB 57 – Regulation of Home Inspectors

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The Wisconsin REALTORS® Association (WRA) supports SB 74/ AB 57. The purchase of a home is typically the single largest investment a person makes. As a result, buyers purchasing a home want to understand the conditions relating to the home.

**SB 74, essentially:**

**1. Moves training to be completed before registration.**

SB 74 does not increase education requirements for new registrants, but rather impacts when the 40 hours of education must be completed. This bill requires the 40 hours of education to be completed before taking the exam and exempts the new registrant for the first and second cycle of continuing education.

**2. Offers reciprocity to home inspectors.**

This bill extends reciprocity to qualified home inspectors from other states with similar or more stringent requirements.

**3. Compels a home inspector to call a defect, a defect.**

*Under current law, home inspectors are required to identify conditions during the inspection that meet the statutory definition of defect.* SB 74 requires the home inspector to label those items as defects in the report.

When the buyer makes their offer contingent on a home inspection, the offer is conditioned on a Wisconsin registered home inspector performing a home inspection "which discloses no Defects." After the inspection, the buyer's home inspector must provide a written report to them.

Sellers and their legal counsel often claim the condition is not a defect because the home inspector did not use the word "defect" to describe the condition the buyer is citing as a defect per the offer to purchase terms. Without consistency, confusion and disputes will continue for consumers on both sides of the transaction.

**4. Requires the inspection report to include a summary page.**

Typically, the home inspection report is lengthy and includes many details relating to the conditions of the property. This change allows buyers the opportunity to absorb a *synopsis as to inspector's overall observations of the property*, while pointing the buyer to the place in the report detailing the inspector's observations.

**This legislation:**

- **DOES NOT modify the responsibilities of home inspectors.**

Under current law, home inspectors are required to identify conditions that meet the home inspector statutory definition of defect. *This legislation does not change that.*

- **DOES NOT increase the liability of home inspectors.**

Home inspectors are currently required to identify conditions that meet the statutory definition of defect during the inspection. The mere fact a home inspector is now required to label those items defects, does not increase liability.

Rather than referring to the condition in various ways such as “major issues,” “major concerns,” “significant issues,” and “potential safety and health issues,” home inspectors will consistently be required to label those items the home inspector identified during the inspection as a defect in the report.

Additionally, to address concerns voiced by home inspectors as to liability, section 11 nonstatutory provisions on lines 5-9, states the legislature was not intending to modify home inspector liability by requiring the home inspector to use the term defect as defined in the statute.

Further, last session the Wisconsin Association of Home Inspectors (WAHI) supported an amendment that removed the word future and inserted clarification that the condition identified as a defect is based on the home inspector’s judgment on the day of the inspection.

- **DOES NOT expand the definition of defect in the home inspector statute.**

While the legislation modifies the definition of defect to clarify defects are conditions based on the inspector’s judgement as of the day of the inspection, *the legislation does not expand what the home inspector must identify as defects.*

SB 74 does not change what is a defect to be identified by the home inspector. This bill simply requires a home inspector who identifies a defect during the inspection as currently required by law, to label that item as a defect in the inspection report.

- **DOES NOT change negotiation rights between buyers and sellers.**

Neither the home inspector nor this legislation determines how the buyer and seller choose to negotiate the terms of the offer based upon the inspection report.

The WRA respectfully requests your support for SB 74/ AB 57.



February 17, 2021

To: Senate Committee Insurance, Licensing & Forestry  
Senator Mary Felzkowski, Chair

From: Wisconsin Association of Home Inspectors, Inc.  
Ric Thompson, President  
Julie Arnstein, Executive Director

RE: **Senate Bill 74**

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.

Senate Bill 74 is nearly identical to the amended version of 2019 Assembly Bill 655, which passed the Assembly in February 2020 and the Senate Committee on Utilities and Housing in March 2020.

WAHI had a few issues with the 2019 AB 655 as it was introduced and worked with the bill authors, Rep. Rob Brooks and Sen. Kathy Bernier, the office of Sen. Dan Feyen and the Wisconsin Relators Association to prepare an amendment which made changes to the existing definition of “defect.” WAHI felt strongly that revising the definition of “defect” would improve the legislation and lessen the impact of the required use of the word “defect.” WAHI became “neutral” on the legislation after the adoption of that amendment.

WAHI is neutral on SB 74, which has been reintroduced with a small, clarifying change. The phrase, on page 4, line 8, which reads “Other than items labeled as defects” will help clear up some WAHI members’ concerns about redundancy on the new required summary page.

WAHI has been encouraging its members to begin to utilize the new requirements of the summary page before they are required to use it to work out the “kinks, and to educate realtors and home buyers about the new format.

Please feel free to contact WAHI with any questions or concerns. Thank you for your consideration.



**From: Senator Kathy Bernier**

**To: The Senate Committee on Insurance, Licensing and Forestry**

**Re: Testimony on Senate Bill 74**  
**Relating to:** regulation of home inspectors, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and granting rule-making authority.

**Date: February 17, 2021**

Thank you, Chairwoman Felzkowski and committee members for allowing me to testify on Senate Bill 74 today. I am grateful for the opportunity to work with Representative Brooks on this legislation to help homebuyers in Wisconsin.

I want to start by noting that an analogous version of this bill passed unanimously last session in both the Senate Housing and Utilities Committee and the Assembly Committee on Regulatory Licensing Reform. The bill also passed the Assembly via voice vote.

When purchasing a home, prospective homebuyers hire an inspector to help them understand the condition of the property and point out any defects the property may have. However, current state law has holes that can leave buyers without the information they need to make an informed decision. Senate Bill 74 applies a few commonsense changes that reorder current training requirements for inspectors and ensure consistency in inspection reports so that consumers are better served.

Under current law, home inspectors are not required to receive any training prior to obtaining their state registration. But, after two years, registered inspectors are required to seek continuing education. Senate Bill 74 reorders currently required continuing education to become pre-registration training. The bill then extends the exemption for continuing education for new inspectors from one renewal period to two. This ensures that every home inspector has had extensive instruction before they conduct their first inspection.

In addition, Senate Bill 74 would create uniformity for consumers by ensuring that homebuyers who hire an inspector will receive an inspection report with two basic consistencies: 1. The report will identify ALL items that meet the statutory definition of a defect and 2. The report will contain a summary page with certain required statements to better inform the prospective buyer.

Lastly, the bill provides for reciprocal registration of home inspectors licensed in other states who have similar or more stringent requirements.

In summary, Senate Bill 74 will improve the home buying process by providing consistency and certainty for consumers throughout the home inspection process. That is why I am asking you to please support the passage of this legislation. Thank you again for allowing me to testify today.