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 **Inspector Licensing: The Wrong Path?**By Isaac Peck, Editor

Home inspector licensing has been debated and discussed for years among real estate professionals. Whatever side of the issue you come down on, whether your state has passed licensing or not, there is plenty you may not know about the process and the impact of home inspector licensing.

Over 30 states have some form of home inspector licensing requirements, most of which were passed in the late 1990s or early 2000s, and typically involve would-be inspectors having to take a series of classes, pass an exam and stay up-to-date by taking continuing education classes every few years. Some require inspectors to carry E&O insurance.

Many home inspectors argue over the potential downside to licensing, including formalizing insufficient and inadequate inspection standards, cheapening the profession, doing nothing to protect consumers and allowing inexperienced inspectors to take market share by lowering the barriers to entry. Other inspectors, real estate agents/brokers and consumers maintain that licensing elevates the profession and safeguards homeowners by codifying minimum standards, mandating training and/or background checks and setting a baseline for what an inspector is responsible for.

Currently, a number of states continue to hold out against licensing. Within the past few years, several have seen heated debates within their state legislatures and the real estate community regarding the potential benefits and downside of inspector licensing. The results of recent licensing initiatives vary by state but the question remains: does licensing improve the profession and, more importantly, does it protect the public?

**Lawmaking Process**A number of states, including Delaware, Colorado, Virginia and Kansas, have recently seen inspector licensing make its way to their state legislatures. Licensing regulations successfully passed in Delaware and Virginia. In Kansas, the home inspection profession was deregulated after Governor Sam Brownback vetoed a bill to make permanent the state’s licensing law. In Colorado, a home inspection licensing law was defeated last year. The discussions that took place in these states provide key insights into the pros and cons of inspector licensing.

Real estate agent/broker associations are frequently strong advocates of inspector licensing, causing many inspectors to question their motivations. Leading up to the defeat of the inspector licensing law in Colorado, many Realtor associations lobbied hard in favor of the law. Ed Hardey, Chairman of the Aurora Association of Realtors, argued that inspectors are “the only party in a real-estate transaction who is unregulated and given unfettered access to a person’s home.” Hardey’s comments may have been a veiled reference to an alleged sexual assault of a 14-year-old girl by a home inspector in 2014, a scenario which Colorado Senator Nancy Todd argued would have been prevented if Colorado had a state licensing board regulating inspectors and performing background checks.

But Realtors aren’t the only parties in favor of inspector licensing. Another is James L. Keilson, CMI, a long-time inspector in Maryland, one of first states to pass home inspector licensing regulations back in 1992. Keilson acknowledges that just because an inspector has a license doesn’t mean they are a good inspector, but maintains that licensing still protects consumers by serving as a litmus test for those seeking to enter the profession. “Licensing weeds out the riff-raff that go around doing inspections with no education or skills whatsoever, like in the Old West. So at a minimum, it requires inspectors to have insurance and some basic inspection knowledge, as you need to take a certified state course and then pass the National Home Inspector Examination (NHIE),” says Keilson.

In Virginia, the state legislature recently passed its own home inspection licensing bill (HB 741) which will be effective July 1, 2017. As is typical, Realtors were actively involved in pushing the bill forward. In fact, the bill was actually introduced by the Virginia Association of Realtors. However, the Virginia Association of Real Estate Inspectors (VAREI) soon became involved in crafting of the bill, in an effort to ensure that the interests of inspectors were served and the public protected. By the time the bill passed in January 2016, VAREI fully supported its passage.

**Case for Licensing**
In Kansas, where the inspection industry was deregulated in 2013 when Gov. Brownback vetoed the legislation needed to extend it, the Kansas Association of Real Estate Inspectors (KAREI) was a leading advocate in the inspector licensing discussions when it initially passed in 2008 and again when the legislature sought to extend it in 2013.

Kerry Parham, a Kansas home inspector for 35 years, now retired, played a central role in the licensing legislation as Executive Director of KAREI. While he did not support licensing initially, he was heavily involved in crafting the legislation. Parham reports that the path toward licensing in Kansas was similar to other states: it was forced on inspectors by Realtors, attorneys, and legislators. “Inspectors first became involved in the licensing process after a Kansas attorney-legislator introduced a very short piece of legislation proposing to eliminate any limit of liability on a home inspector. It would have laid an inspector bare and made them liable for things they couldn’t see, forever. It was absurd and would’ve destroyed the industry,” says Parham.

KAREI was formed as a result of this legislation and the group managed to stop the bill before it made it through the state senate. However, Realtors then began pushing for licensing, at which point, Parham recognized that inspectors needed to have a seat at the table to ensure that their interests were protected, as well as the public’s. While Parham concedes that licensing has its flaws, he maintains that it still protects consumers by establishing a minimum set of standards.

Parham also says licensing was meant to chase the unconscientious inspectors out of the industry. “There will always be individuals who lack a moral compass or collude with Realtors. We had an inspector here in Wichita who would take 10–20 minutes per inspection and barely get out of his car when inspecting the house! When people complained about defects, he would refuse to even refund their inspection fee. Before licensing, he would close his company every few years and start fresh under a new name to avoid the bad reputation. After our legislation, he immediately got out of the business,” says Parham.

Licensing, Parham argues, is a way to elevate the profession. “Having unscrupulous, unethical people operating as home inspectors not only hurts the public, but also hurts the public’s perception of home inspectors. Before licensing, homebuyers would call and tell me they don’t see a reason to get a home inspection, that we don’t do a good job, and that their friends had hired inspectors who hardly spent any time at the property and missed major defects. Public perception of home inspectors takes a beating when there are no regulations or ways to enforce accountability,” says Parham.

Parham also acknowledges the criticism that inspector licensing allows new, inexperienced home inspectors to masquerade as true professionals by highlighting their state licensed status. “I think the criticism is true to a point. If a consumer is not going to do any research on a home inspector and rely on the fact that they’re licensed as the sole criteria, they are taking a shot in the dark. On the other hand, if you don’t have any kind of minimum standards, anybody can perform an inspection and the inspection can say anything. You can’t legislate ethics—you can’t make somebody do a good job. All you can do is require that those people who are doing the job are required to look at certain things and at least have the foundation of knowledge that’s necessary to do it right,” says Parham.

Since the inspector licensing bill was vetoed in 2013, Parham says that the Kansas legislature has become even more libertarian and a number of legislators are trying to get rid of regulations and licensing for everyone, even doctors. “There’s a reason we have street signs and traffic lights and all the other laws that have come about. It’s because we need an orderly world and you shouldn’t have to worry about getting ripped off or scammed at every corner. It should be the state’s responsibility to help consumers in that regard, and professional licensing is part of that,” argues Parham.

**Case Against**While there may be some advantages to inspector licensing regulations, many home inspectors are decidedly against such measures.

Robert Anderson (speaking under an alias for fear of retaliation), a seasoned home inspector with nearly 15 years of experience in Kansas, maintains that home inspection licensing solves nothing, is a ploy by real estate agents/brokers to minimize their liability and close deals, and actually makes things worse for the consumer by lowering the quality of inspection reports.

Pointing to the fact that many home inspection licensing bills, such as the one in Virginia, are pushed forward by the state’s Realtor association, Anderson argues that real estate agents have a financial interest in having cheap, low-quality, basic inspections so their deals can close. “Recommending a cheap inspector works well for agents. The low cost of an inspection looks good to the buyers and makes the agent look good too. Cheap, inexperienced, and uninsured inspectors are in business because agents recommend them to homebuyers,” says Anderson.

Couched in Anderson’s argument is the idea that licensing actually results is an influx of new, inexperienced home inspectors who use their “licensed” status to market themselves as experts, which decreases the competitive advantage of experienced inspectors. The newbies then provide low-quality reports and use low fees as a way to take market share from more experienced, established inspectors who’ve spent years building their expertise and honing their skills. Consequently, the level at which an inspector is expected to perform is lowered. “Kansas had the worst laws, rules, regulations, and Standards of Practice (SOP) of any state. But any state SOP is a bare minimum standard. I go way above them. Those who abide by the SOPs only are hurting the rest of us. Designated inspectors and those with years of experience know how to inspect, report, present, and properly inform the homebuyer. We should be getting paid for it. But it is tough for us to compete with low-quality $199 inspections,” says Anderson.

A main reason Anderson suspects that real estate agents push so hard for inspector licensing is to minimize their liability in referring home inspectors. “Anytime a deal goes sour after a sale closes, agents are worried that they will get pulled into the lawsuit because they have deep pockets. However, if all home inspectors are licensed, the agent can feign ignorance and try to shirk responsibility for recommending that particular home inspector. They no longer have to recommend the best inspectors because if anything goes wrong, they can argue that they thought their cheap home inspector was competent because the state said so. After all, the state gave him or her an inspector’s license,” says Anderson. On top of getting inspectors licensed, Anderson argues that agents have also been behind the push in many states to include regulatory statutes that require inspectors to carry E&O insurance, as this further protects Realtors from liability by providing another pocket to pick if things go south in the transaction.

**Varies by State**Of course, each state’s home inspector licensing laws are different. Some laws have very stringent requirements for home inspectors and others have bare-bones requirements. Mike O’Handley, an inspector who helped craft the home inspector licensing legislation in Washington, says that their licensing law includes a number of provisions that set it apart and help protect the public.

For example, some states grandfather in existing home inspectors without any further testing or proof of competency, a practice that O’Handley says the Washington law was careful to avoid. “Even inspectors who were grandfathered in were forced to take the NHIE or they were denied a license. We had 35 very experienced inspectors who couldn't pass the NHIE. They were forced to either leave the business or go back to school to get minimally trained so they could pass it. This rule doesn't guarantee that an inspector will be the best inspector on the planet, or the most ethical, but it does weed out those who aren't minimally competent. None of those Kansas requirements did that,” says O’Handley.

In other words, the law’s effect on the profession and the public will vary depending on how well it is written. “We also have a mentoring and report-writing requirement that exposes a new inspector to the profession. If the mentor is conscientious, the new inspector will learn quite a bit. But the law is also a check on the mentor. If a newbie inspector's report ever comes into question, the mentor may end up getting his or her reports audited by the state and could face disciplinary action or license suspension if they’ve been doing poor work,” says O’Handley.

Another interesting facet of the Washington law is that only consumers who hired the home inspector have standing to file a complaint with the state, effectively preventing home inspectors from filing complaints against each other, or disgruntled agents from filing complaints against a perceived “deal killer.”

Lastly, O’Handley disagrees with the notion that licensing disadvantages experienced home inspectors. “Our rules didn't level the playing field, which is something I heard a lot from experienced inspectors who felt that licensing would eliminate the competitive advantage they’ve been building for 20+ years. Everyone still has to compete with one another on the same level as they did before licensing,” O’Handley says.

**Best Regulatory Model**
John Shishilla, a home inspector in Florida, where nearly 10,000 home inspectors are licensed to do business, says that he has recently begun researching state licensing models to try to find out what the best licensing model is for home inspectors. The rules and enforcement mechanisms for inspectors often vary greatly, according to Shishilla. “Every state is different. Some states have home inspector boards to regulate inspectors, and in other states inspectors are actually overseen by the real estate agent board. If a real estate agent board controls home inspectors, is that good or bad for the industry? Here in Florida, we’re controlled by a department that knows nothing about home inspections. I’ve actually called the Florida Department of Business and Professional and Regulation and asked to speak to somebody who knows about home inspections. They actually said, word for word: ‘No, we don’t have anybody like that here.’ So the organization making and enforcing the rules doesn’t know anything about our profession,” says Shishilla.

Working with other inspection firms, Shishilla is researching which state has the best rules and the best system in place so that Florida can model it. Shishilla says about a third of licensing states have some kind of home inspector board. The remainder are overseen within other boards or, as in Florida’s case, simply have a government department that regulates inspectors. “Do we want a home inspector board, and if so, do we want real estate agents, builders, or code officials on it? Or would it be better to let a government body regulate us? The devil is in the details. I am looking for feedback on how these regulating bodies are doing. I don’t think we should have weak regulations on the profession. At the same time, if you give a regulating body too much power, that’s a problem too, so it’s tricky to find the right balance,” says Shishilla.

The solution then, according to Shishilla, is for home inspectors in their respective states to organize and work together to implement more effective models of inspection regulation to ensure that inspectors are required to be competent, but are also treated fairly.

While some inspectors may be focused on reforming existing regulations in their states, nearly a dozen states do not have any home inspector licensing laws at all. Many states have been content with letting the free market manage the inspection profession. However, if you’re in an unlicensed state, it probably won’t be long until your local Realtor association pays a visit to your state legislators and begins pushing for home inspector licensing. Home inspectors may disagree on whether licensing is good or bad for the profession, but the most important lesson to be learned from the history of licensing is that when the Realtor associations come knocking, home inspectors must get actively involved in the legislative process to ensure that any new licensing law serves both inspectors and the public.

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**About the Author**
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**Note:** The following story is from **Working RE Inspector**, a new print magazine exclusively for home inspectors. If you missed the print issue, you can read it [here](http://issuu.com/workingre/docs/wre_inspector_-_issue_1_486d83b70d5eba)**.**

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