

(Heard testimony on both bills at same time)

321 (Bock) DATCP (\$500 for each violation)  
 334 (Vrakas) req. for regio w/ D of Reg: hearing  
 test & certification

\* Bock / consumer protection legislation

- written report within 30 days
- report last year against an inspector
- see fiscal estimate on # of complaints / conflicts

\* Vrakas / 4<sup>th</sup> session to introduce the legislation → 8 yrs.

- samples
- courts → no criteria to prove / <sup>no</sup> set standards for their job.
- registered home inspectors (set req. needed)
- DPHR / weatherization only
- follow other professions (plumbers)
- home insp. / consumers / head of Dept.
- ↳ bring back standards in bill from to the Committee
- best for consumers / #1 issue for introd. the bill

\* Winick

- pro-consumer!! protect home buyers!
- anyone can say they can be a home inspector - this is wrong!
- why are home inspectors against "professionals"!
- DATCP / wrong dept. \$500 fine is a "4 step on the hand"!

Secy. Cummings (Reg. & Inv.)

- study conducted in 1991
  - examination / what do I need to take to be a home inspector?
  - this is an area that needs regulations → follow similar professions.
  - 1<sup>st</sup> need to do a job analysis (ASHI) → prof. of occupation  
Wis. wants consumer protection
  - background ck. (many inspectors are in homes on their own)
  - last member of the housing industry to be regulated.
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- 2½ - 3 hr. inspection / average \$225 - 250
- \$6.4 billion market / Milwaukee → provided a disclaimer (sheet)  
↳ large business to be unregulated!
- inspectors feel they should not be liable for things they can't see (things that are covered up)
- limited time / can't thoroughly ck. everything!

(ina  
Cauka pg 6 / 1-12 (not clear definition) can't be responsible for every  
single element

pg. 6 / 13-18 → certified in "risk" matters

pg. 8 / 1-5 inspector may not "fit" in certain areas

pg. 9 / 15 what does "any act" mean?

pg. 9 / 21 what transaction?

AFSCME International  
8033 Excelsior Drive, Ste. A, Madison, WI 53717-1903

**FAX**  
**PRIORITY**

Date: 10-16-97

Number of pages including cover sheet: 4

To: Rep. Carol Owens  
attn: Jackie

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Phone: 267-7990

Fax phone: 282-3653

cc: \_\_\_\_\_

From: Jennifer Grandin

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Phone: 608/836-6666

Fax phone: 608/836-3333

REMARKS:  Urgent  For your review  Reply ASAP  Please comment

Testimony for 10 a.m. hearing.

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The plumber phoned his boss who contacted the city building inspector. They arrived and after inspection indicated that the plumbing had been done by an amateur (in this case the previous

October 16, 1997

Representative Carol Owens  
Chair, Assembly Committee on Housing  
& Members

Dear Representative Owens & Committee Members:

I am writing to express my support for Assembly Bills 321 and 334. I am sorry that I am unable to offer my testimony in person.

In August of 1992 we moved from the Upper Peninsula to Green Bay and purchased a home. We had our home inspected and paid over \$200.00 for the inspection. We entered into the purchase agreement feeling confident about our purchase.

Our first inkling of problems occurred immediately. The dishwasher which had been identified as functional was in fact not. While it ran water through the system it did not clean. We replaced the appliance to the tune of \$500.00. We also experienced numerous clogged drains and water leaks in the basement. We were on a first name basis with the drain repairman. None were particularly serious and we chalked it up to a 40 year old plumbing system. During the summer of 1993 we noticed a noxious odor from the hardwood floors when the weather turned humid and warm. After numerous cleaning and odor removal services we ended up sanding and refinishing the floors at considerable expense.

Finally, in August of 1993 we brought in a plumber. After a quick inspection of our basement piping he came upstairs and indicated that he could not do any repairs until the plumbing was reviewed by the city building inspector. The plumbing work was not done to code and in some instances parts were used that are prohibited by law in Wisconsin. None of the defects were noted on the inspection form filled out by the home owner or inspector. The plumbing defects were in full view and exposed.

The plumber phoned his boss who contacted the city building inspector. They arrived and after inspection indicated that the plumbing had been done by an amateur (in this case the previous

owner who was a car salesman by profession) and that no permit had been applied for by the homeowner. I asked how these discrepancies occurred since I had the home inspected prior to purchase and none of these items were noted. They exchanged knowing glances and told me that anyone could hang out their shingle and represent themselves as a home inspector. In addition to noting the plumbing problems the city building inspector also found a hole in our chimney. This could have resulted in a build up of carbon monoxide in our home had a backdraft occurred. This was not just an inconvenience but a potential life threatening situation to our family. This was also in full view of the inspector. The plumbing repairs cost me \$1,200.

I contacted the home inspector and previous owners and related what had occurred. I asked them to sit down and resolve the situation in a neighborly fashion. My overtures were rebuffed. The previous owner lied and indicated that he had in fact applied for a remodeling permit from the city. He also said that his realtor had not informed him of his obligation to disclose defects in the home. This in spite of his completion of a defect form he completed. When I asked the home inspector why he had not noted the city code violations he responded "I am not required by law to provide that type of information". What then is he required to provide? If home inspectors are not required to identify violations of the city code which is designed to protect the health and safety of consumers then what value is their service?

I also contacted the seller's realtor and spent several months trying to get all three parties to the table but to no avail. I was left with no choice but to file a claim in small claims court. This was a time consuming and arduous process. All three parties hired attorneys. The attorneys attempted to intimidate and bluff me into withdrawing my claim. They threatened an appeal if I won in small claims and tried to coerce me into signing a disclaimer absolving them of any future liability if I won. I declined and indicated that I was prepared to have my day in court. The day prior to our court date they agreed to my terms and settled.

I am fortunate in that my educational and professional background have trained me to work through this type of situation. My concern

lies with those who have neither the understanding, resources or perserverance to right these types of wrongs. After I filed my claim I received numerous calls from individuals who had similar experiences and were researching the claims filed.

Clearly the current system does not work and the two aforementioned bills attempt to address this problem. I am not familiar with the standards of the American Society of Home Inspectors and would recommend that AB321 include a requirement that inspectors must be knowledgeable of and report any code violations in the communities in which they work. I am also supportive of the testing requirement included in AB 334. I would recommend that those who do not take the test and become a registered home inspector be required to disclose this information to potential clients.

I believed and I'm sure others do as well that this profession is licensed and regulated. After all, cosmetologists and interior designers are and their work does not entail the degree of responsibility for health and safety that a home inspector does.

Our family was fortunate. We were merely inconvenienced and agitated by this experience. The outcome could have been quite different however if the hole in our chimney resulted in carbon monoxide poisoning that could have debilitated or worse, killed our family.

I am more than happy to respond to any questions with regards to my testimony. I am sorry a work conflict prevents me from appearing before you today.

Thank you for your consideration of my testimony.

Sincerely,



Jennifer Gondin

21 Maple Grove Court

Madison, WI 53719

(608) 277-5703

STATE OF WISCONSIN

To \_\_\_\_\_

Date 10/16/97 Time \_\_\_\_\_

WHILE YOU WERE OUT

M Katheline Lennon

of AB 321

Phone 1211 Elmwood Ave.

OSHKOSH WI 54901

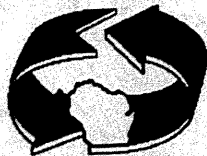
Telephoned	<input checked="" type="checkbox"/>	Please Call	<input type="checkbox"/>
Called to See You	<input type="checkbox"/>	Rush	<input type="checkbox"/>
Returned Your Call	<input type="checkbox"/>	Will Call Again	<input type="checkbox"/>

Message \_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_



\_\_\_\_\_  
Party Receiving Call

- AB 321

IN Support.

In the past she has had home inspectors ruin sales because they did not know what they were doing.

Example: H.I. \$5-6000 to fix a basement, actually cost \$350.

- Checking carbon monoxide levels, h.i. said heating heat exchange was broke, it actually was not





**WISCONSIN  
REALTORS®  
ASSOCIATION**

OCT 14 1997  
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Madison, Wisconsin 53704-7337  
608-241-2047 • In WI 1-800-279-1972  
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URL <http://www.wra.org>

DAVE STARK, GRI, President

WILLIAM MALKASIAN, CAE, Executive Vice President

TO: All Legislators  
FROM: Michael Theo, Vice President for Public Affairs  
DATE: October 13, 1997  
RE: AB 321 - Regarding Limited Regulation of Home Inspectors

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The Wisconsin REALTORS Association (WRA) opposes AB 321, legislation which falsely claims to regulate home inspections in Wisconsin.

#### **BACKGROUND**

Since 1992, the WRA has attempted to design legislation to regulate home inspectors in Wisconsin. The result of these efforts was the introduction of AB 334 and SB 186. These bills deserve expeditious legislative consideration and support.

During this process, a small group of home inspectors has steadfastly opposed any meaningful regulatory legislation. Protracted discussions involving these inspectors, the WRA, interested legislators, and the Department of Regulation and Licensing, resulted in consensus among all parties, except this small group of inspectors. It was clear that this group desired the status quo - ie: no legislation.

AB 321 was introduced at the request of this group of home inspectors who neither bargained in good faith nor represents the desires of most home inspectors in Wisconsin.

#### **PROVISIONS OF THE BILL**

AB 321 will provide no measure of meaningful consumer protection in Wisconsin. In fact, the bill is specifically designed to achieve meaningless regulations. The flaws are as follows:

**1. Regulation by DATCAP:** AB 321 suggests regulation of home inspectors by the Department of Agriculture, Trade and Consumer Protection (DATCAP). This department is wholly unequipped to execute the regulation of a profession. The job of regulating professions in Wisconsin is, and always has been, conducted by the Department of Regulation and Licensing (DRL). DRL is the agency that regulates most credential holders in real estate transactions, including real estate brokers, salespeople, appraisers, mortgage bankers, architects and professional engineers. There is a substantial difference between regulating professional conduct and responding to consumer complaints. Wisconsin housing consumers need both, but AB 321 specifically precludes this.

**2. Limitation on Liability:** The most pressing problem with the unregulated environment Wisconsin home inspectors currently operating in, is the complete lack of liability for an inspectors work. Many home inspection forms contain a complete or extremely broad waiver of liability for mistakes and misrepresentations. AB 321 does absolutely nothing to address this serious problem.

AB 321  
Page 2

Under AB 321, home inspectors who violate rules to be promulgated by DATCAP, are subject to a maximum fine of \$500. This amounts to a weak slap on the wrist for the most egregious mistakes which could cost buyers and sellers thousands of dollars. This provision puts into state statutes a meaningless protection for consumers for faulty inspections - inspections that could miss important defects hurting buyers who trusted their report, or falsely requires significant dollars be expended in repairs by sellers that were not needed. Consumers who suffer thousands of dollars of damages may be prevented from collecting damages, yet DATCAP could do no more to stop future negligent inspections than to attempt to levy a \$500 fine.

**3. Required Second Opinion:** AB 321 also contains a separate limitation on liability stating that inspection reports must contain language that specifies if a home inspector is not a licensed structural engineer, (the overwhelming majority of which are not), clients are advised to seek a separate professional opinion as to any defects or concerns mentioned in the report.

With this language, a home inspection report in Wisconsin is worthless. This language gives nearly every home inspector in Wisconsin the legal ability to throw out any complaint against them. Inspectors need only point to this language on the inspection report form and say the client had the legal responsibility to pay for a separate report by a licensed structural engineer if the report contained any inaccuracies.

**4. Distribution of Reports:** AB 321 limits the distribution of inspection reports to clients only, (ie: mainly buyers). This limitation eliminates the ability of all parties to a transaction to review and possibly challenge information contained in the report. Transactions could needlessly fall apart based on false or misleading information because there was no opportunity afforded all parties to review and respond to the report.

## CONCLUSION

The curious provisions of AB 321 clearly indicate that this bill is not a serious attempt to protect consumers and provide meaningful regulation of home inspectors in Wisconsin. For workable and meaningful legislation to regulate home inspections in Wisconsin, we strongly urge you to oppose AB 321 and instead support AB 334 and its companion bill, SB 186. These bills are supported by the Department of Regulation and Licensing and the Real Estate Board, the state bodies charged with protecting the home buying public in Wisconsin.

**FISCAL ESTIMATE**

DOA-2048 (R 10/94)

- ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

LRB or Bill No. / Adm. Rule No.

AB 321 (-2832/1)

Amendment No. (If Applicable)

**Subject**

Relating to home inspection trade practices and rulemaking

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Increase Costs - May be possible to Absorb Within Agency's Budget       Yes       No

Decrease Costs

Local:  No local government costs

1.  Increase Costs  
     Permissive       Mandatory  
 2.  Decrease Costs  
     Permissive       Mandatory

3.  Increase Revenues  
     Permissive       Mandatory  
 4.  Decrease Revenues  
     Permissive       Mandatory

5. Types of Local Governmental Unit Affected:

- Towns       Villages       Cities  
 Counties       Others \_\_\_\_\_  
 School Districts       WTCS Districts

**Fund Source Affected**

- GPR       FED       PRO       PRS       SEG       SEG-S

Affected Ch. 20 Appropriations  
20.115(1)(a)

**Assumptions Used in Arriving at Fiscal Estimate**

This bill requires DATCP to adopt and enforce rules establishing standards for home inspections based on standards developed by the American Society of Home Inspectors, and establishes certain statutory standards of practice for home inspection businesses. The bill does not require minimum competency standards for home inspectors.

Few complaints have been received by DATCP regarding home inspection services. Home inspection services generated one complaint in 1996, 5 complaints in 1995 and 3 complaints in 1994. Specific rules and statutory practice standards will create a potential for increased complaint handling by the Department. However, the number of complaints and needed complaint investigations is still expected to be small. Assuming one in-depth investigation/enforcement action per year, staff costs to the Department would total \$3,979. This is based on an estimated 180 hours of investigative staff time (Range 5) for cases referred for prosecution to district attorneys or the Department of Justice.

One-time costs would be incurred to develop rules. Assuming 120 hours of attorney staff time (Range 14) involved with the rulemaking, costs to the Department would be \$4,510. Assuming 450 hours of Division staff time (Range AA-15) associated with rulemaking, additional one-time costs for staffing the rulemaking effort, holding hearings, preparing rule documents, making Board presentations, and otherwise supervising the rulemaking effort would total \$8,073. Printing and travel costs of \$300 would also be incurred as part of any rulemaking. Thus, total one-time supplies and staffing costs are estimated to be \$12,883.

**Long - Range Fiscal Implications**

None

Agency/prepared by: (Name & Phone No.)

DATCP  
Tom Stoebig 224-4944

Authorized Signature/Telephone No.

*Barbara Knapp*  
Barbara Knapp (608) 224-4746

Date

5/8/97

**FISCAL ESTIMATE WORKSHEET**

**1997 SESSION**

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/94)

ORIGINAL  UPDATED  
 CORRECTED  SUPPLEMENTAL

LRB or Bill No/Adm.Rule No. Amendment No.  
AB 321

**Subject**  
Relating to home inspection trade practices and rulemaking

**I. One-time Cost or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**  
\$12,883

II. Annualized Cost:	Annualized Fiscal Impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$ 3,979	\$ - 0
(FTE Position Changes)	(0.1 FTE)	(-0 FTE)
State Operations - Other Costs	500	- 0
Local Assistance	0	- 0
Aids to Individuals or Organizations	0	- 0
<b>TOTAL State Costs by Category</b>	<b>\$ 4,479</b>	<b>\$ - 0</b>
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ 4,479	\$ - 0
FED	0	- 0
PRO/PRS	0	- 0
SEG/SEG-S	0	- 0
III. State Revenues - <small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	Increased Rev.	Decreased Rev.
GPR Taxes	\$ 0	\$ - 0
GPR Earned	0	- 0
FED	0	- 0
PRO/PRS	0	- 0
SEG/SEG-S	0	- 0
<b>TOTAL State Revenues</b>	<b>\$ 0</b>	<b>\$ - 0</b>

**NET ANNUALIZED FISCAL IMPACT**

	STATE	LOCAL
NET CHANGE IN COSTS	\$ <u>4,479</u>	\$ <u>0</u>
NET CHANGE IN REVENUES	\$ <u>0</u>	\$ <u>0</u>

Agency Prepared by: (Name & Phone No.) DATCP Tom Stoebig 224-4944	Authorized Signature/Telephone No. <i>Barbara Knapp</i> Barbara Knapp (608) 224-4746	Date 5/8/97
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