

Re: HB 1421

House Professional Licensure Committee

Rep. Julie Harhart, Majority Chair

Chair Harhart and Members of the Licensure Committee,

In ways of introduction, my name is Jack H. Milne, Jr. I have been a home inspector for 33 years in the Commonwealth of Pennsylvania and the founder of the PA Home Inspectors Coalition or PHIC. In our occupation, roughly 95% of home inspectors are entrepreneurs and sole proprietors. I am fortunate enough to be one of the few multi-inspector firms. Having run a business for over 31 years and conducting well over 75,000 property evaluations representing buyers, sellers, and investors, I have seen on a daily basis what the consumer goes through when they purchase real estate. It doesn't matter if it's their first home or their fourth home. It doesn't matter if it's an investment property or a tear down. Every client is the same regarding possible buyer's remorse, anticipation, nervousness, etc. One thing that is common among most buyers is that, when they are looking for real estate, buyers spend approximately 20 minutes in a home with a realtor, then decide to put an agreement of sale together, and then all of a sudden they own it. Fortunately, today most buyers are having home inspections performed for their benefit and the purchase of the real estate is contingent on the results of the home inspection. For roughly \$500 on average, a home inspector will come to the site, walk the roof when safe, cover the exterior components, go through all of the mechanical systems, and then go room by room, finishing in the attic. A report is then generated and forwarded to the client and with permission, to the realtor as well. Typically, a good home inspector can conduct two property evaluations per day. Keep in mind that in the rural parts of the state, it may be only one inspection per day. \$500 may sound like a lot, but once you pay your taxes, insurances, business expenses, office expenses, health insurance, etc, this \$500 may only net \$175 - \$200 at best. None of us are millionaires based on the career we chose. None of us have the benefit of healthcare (ie: Obamacare). For myself, student loans for my son at Penn State were not obtainable because I am self-employed. When I applied for my mortgage, I had to go through 4 mortgage companies, even though I put 1/3 down on the house, and employ others.

I do however consider our occupation a "white collar" occupation. We are in line with the architects, engineers, and land surveyors. However, we are also considered general practitioners (ie: doctors) that may give physicals on an annual basis to all of you. Just like your personal physician, we give the current condition of the building's health; much like a doctor would give you an opinion on your health. It is then up to the patient to seek further care, be it a heart specialist, a lung specialist, a urologist, etc. We do the same as home inspectors. If there is a material defect found, then we are going to recommend a heating/cooling contractor, a structural engineer, a roofing contractor, an electrician, etc. in order to assist the buyer.

The liability that we take on is extraordinary. In the Commonwealth, it costs \$153 to place a lawsuit. Even though the law is clear that we do not provide guarantees or warranties, that does not prevent a trial attorney from trying anyway. In the room today are a few home inspectors that I asked to come along. I guarantee that if you asked any of these ladies or gentlemen in the audience today if they have been sued, every hand would be raised. This however turns out to be double jeopardy. In the Commonwealth, insurance is required to conduct home inspections, as it should be. The problem is, if we put claims into the insurance company, we will not get re-written. I currently have a case where the claimant is suing for \$200,000 for mice feces. It is clear in my contract that we do not inspect for pests or other wildlife, and I have no designations behind my name as a pest control operator. This did not stop the trial attorney from attempting it. The sad part is that my insurance carrier also does not cover me for pests and other wildlife, thus the reason I have that statement in my contract. The contract that we send to all of our clients is issued well before the inspection, we have the contract reviewed and signed prior to the start of the inspection, and then reports are issued. At this point, I have to hire my own attorney, a \$2500 retainer has already been paid, and I have no idea how this matter will come to fruition. I do know that, at the end of the day, it is money out of my pocket to support this claim. With over 75,000 properties inspected, I have been sued 3 dozen times, losing only one to squirrels. Tens of thousands of dollars have been spent defending my company over frivolous issues. Unfortunately, I can't recoup those losses.

At the stakeholders meeting in January between the realtors, Representatives Kortz and Helm, we had a very good understanding how best to pursue the licensing bill. However, the re-write, which was supposed to be conducted within a few weeks of the meeting, did not reach my desk until the 3<sup>rd</sup> week of August. The re-write and the results of the stakeholders meeting are completely different. The trial attorneys now want us to double our liability to 2 years. When speaking to the author of the bill, she asked if I had any problems with trial attorneys. I said, "Only if they sue us." This opens the inspector up to another year of liability, and it allows a homeowner to live in their home over 700 days before they can place a claim. For a \$500 fee, how do you expect us to maintain our livelihood with the "Damocles sword" hanging over our heads? After all, the names on our business cards do not end with the words "God" or "perfect". We are all human. Home inspections are literally a snapshot in time, and we are looking at the conditions of that property on the day of the inspection. Every contract states that we do not provide guarantees or warranties as you can well imagine. The PA Association of Realtors had a chance to review the redraft with the author on September 6, 2016. I was told there was not enough time before today's hearing to have the same opportunity, although we made ourselves readily available.

There is a saying, "Don't shoot the messenger." When conditions change, the client may reach out to us or they may reach out to their realtor. The realtors are very quick to say, "You had your home inspected, I have no idea what you're talking about, so call the inspector." We have had sellers who have complained about home inspectors because we found issues within their home that they may not have been aware of. We are always the first to blame when a question or issue arises.

Many of my peers in this profession have been hurt by falling off of roofs, illnesses and broken bones. I personally had pneumonia at the age of 42, whereby the doctor asked if I worked around bats or mice, of which I claimed yes. The average age of a good home inspector is mid-forties. You can see in this room today that there are no college kids here. Most of us have gone through the trials and tribulations of being a contractor or have been in another field and have taken the time to be properly trained. Those who are unqualified will be sued out of business. I would guesstimate that 60% of the people who try to make it in this field fail because they cannot afford to prove themselves innocent. Once again, the more claims that are sent to the insurance company, the less likely that you will be written and protected, thus forcing you to close your doors.

I understand that Pennsylvania is one of 12 states that still do not license their home inspectors. However, like any structure, a weak foundation supports a weaker home. House Bill 1421 is a beginning, but by no means is it an end. We have to sit back down at the table with the stakeholders and remove certain components of this bill and fine-tune others. My biggest concern is the 2 year liability. My second concern is the mold issue. I understand that Representative Kortz had a constituent that moved into their home with a mold issue. There are currently 4,000 varieties of mold. The way that this bill is written, if we come across any signs of potential mold, we have to give the location of the suspected mold and recommend a specialist. It is my opinion that every house will require a mold evaluation to reduce the potential liability on the home inspector because every house has mold. Once again, we cannot get insured for mold unless we are certified. If you read most of your homeowners insurance policies, they too will not cover a house against mold. We are put on the front line with a target on our backs, for if we don't say exactly where this mold is found, we can then be held accountable by the trial attorneys.

The education language is also sloppy. I do believe that 120 credit hours of education is excellent, however, our current law requires 100 mentored inspections. Currently, the way the bill is written, 40 in-field inspections followed by 50 mentored inspections are required, which is ambiguous at best. The board to be established allows for 13 members, of which 6 are home inspectors. The other 5 will have **NO** level of expertise in the home inspection field. I would prefer to have a structural engineer, a real estate attorney, and a realtor be at least a few of the 5 that are questionable at this point.

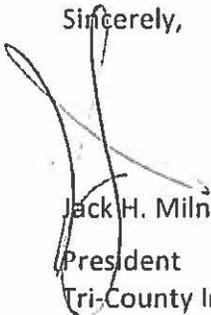
As to the fees, (at this point) the bill does not mention anything about what the fee structures would be for the licensee. The next part of the language indicates that you have the right to raise the fees depending on cost. I can tell you that as a New Jersey licensed home inspector, the fees are \$500 for every 2 years. In Philadelphia, I pay \$300 for a 3 year license.

Many other aspects need to be re-discussed, however, today I will not have the time. Ms. Harhart, I would ask that you allow for another stakeholders meeting, so that we can hammer out the details and provide a good, strong piece of legislation. There is nothing worse than a bad bill and a poor law. This will affect every home inspector in the Commonwealth, as well as every client and real estate professional. I know that this is a mountain that we all have to

climb, and we need to do it together so that at the end of the day, we have the best law in the country rather than a mishmash of language.

In closing, the home inspector is the angel in the pocket of every consumer buying or investing in real estate. We have no vested interest as to the purchase and/or value of the property. The real estate professional will process the paperwork and in most cases, not even come to the home inspection in order to reduce their liability. In most cases, the seller is not at the inspection, so that we cannot have any reliable discussion with this individual. As to the seller's disclosure form, when available, we call them "gray matter" because the truth may be hidden. Transactions can move forward or take a step back based on a quality home inspection. At the end of the day, however, it is not up to us to make that decision, it is up to the consumer. I ask that you not move this bill forward until we have the opportunity to make it right.

Sincerely,



Jack H. Milne, Jr.

President

Tri-County Inspection Company

Past President

Pennsylvania Home Inspectors Coalition