

Ohio House of Representatives Economic Development, Commerce and Labor Committee

Opponent Testimony House Bill 211 Rev. 3

Douglas Curfman, Nationally Certified Home Inspector, on behalf of Self

October 31 , 2017

Chairman Young, Vice Chair DeVitis, Ranking Member LePore-Hagan and members of the House Economic Development, Commerce and Labor Committee. My name is Douglas Curfman. I am an independent home inspector who has passed the national certification test. I am a member of the American Society of Home Inspectors. I believe in laws that correct a specific situation and improve the life of the governed. House Bill 211, as written, does not offer any benefit to the party that has hired the home inspector, puts undue burden and costs on the home inspector and will be very costly for the State of Ohio to implement.

House Bill 211, through licensing and mandated minimum baseline education, attempts to protect the consumer from what is called in our industry a “soft inspection”. A “soft inspection” is an inspection, that through language in the inspection, downplays the deficiencies of the property being inspected. The licensing and education of the inspector will not change human behavior. Soft inspections will continue to happen because the soft inspector wishes to continue to get referrals from a real estate agent because they are not a supposed “deal killer”. Having a real estate agent refer an inspector is a conflict of interest primarily because the agent has a fiduciary responsibility to the seller, not the buyer. Page 40 line 1168 and page 41 lines 1169 through 1185 attempt to distant the real estate agent/broker from a “preferred inspector” referral by offering 3 or more possible inspector candidates. This measure does not prohibit the agent/broker from offering a suggested preference thereby continuing to allow a wink and nod practice. There needs to be a firewall, a prohibition on referrals between the buyer and real estate agent.

Wording in the bill dictating what should be included in a home inspection report turns the home inspector into a fortune teller. Page 42, lines 1219 and 1220 where “monitor deficiencies” of whatever nature assumes a standard of knowledge and skills by the home buyer that the home inspector has no control over. It places the full burden on the inspector for future events out of the inspector’s control. This will require errors and omissions (E & O) insurance agencies to massively increase premiums at least by a factor of two. With E & O insurance currently ranging on average from \$2800 to \$3500 per year the massive increase in cost must be passed along to the consumer. This will also have a serious dampening effect on new home inspectors coming into the business. It also reduces the burden on the seller and the real estate agent from writing a full and complete disclosure statement. A home inspection report is a report on deficiencies of the property at the time of the inspection, not the future.

HB 211 will drive up the cost of doing business as a home inspector as referenced in the following:

(a) page 47 lines 1365 through 1372 will increase the cost of entering the field as an inspector by putting fees and reporting costs on institutions and organizations that offer initial training and continuing education (b) page 48 lines 1384 through 1388 have the inspector as a non-paid reviewer with more non-home inspection paperwork to learn while opening him up to potential liability which will increase his cost of insurance if he takes on the role of parallel inspector (c) page 60 lines 1741 through 1749 and page 61 lines 1750 through 1751 requiring a five year record retention period is a cumbersome and costly burden to the inspector and further exposes the inspector to unwarranted litigation especially when the statute of limitations for a complaint is one year (d) page 56 line 1631 and page 57 lines 1632 and 1633 are broad and ambiguous leaving the inspector wondering what other possible information needs to be retained to satisfy licensing requirements.

House Bill 211 does not conform to Lt. Governor Mary Taylor's Common Sense Initiative. The licensing fees and fees on educators will not cover the start up and ongoing cost to the state. The approximate \$412,000 for costs is far short for what the wording of the current bill will require due to added administrative positions (page 45 line 1301 going from 5 to 7 board members) and monitoring of bill programs such as page 47 line 1355 would dictate the staffing and administration of the proposed "recovery fund". Also, page 48 lines 1389 through 1394 regarding "continuing education curriculum requirements updated periodically" would be deficient because of the constant change and enhancements in the construction industry thereby requiring constant monitoring not periodic. This does not include the extra cost that will be pushed out to the individual counties to help manage the bill requirements.

In my heart of hearts, I believe that the original intent of the proponents of HB 211 was to protect the consumer of a home inspection. Based on my above observations, it fails. It fails to the extent that I ask why have we continued on through three versions. We contacted the Attorney General's Consumer Protection Section to have them hand cull through their records for home inspection complaints from 2013 through current 2017. They found 14. Why did we ask them to hand cull the records? Because when you go to the Attorney General's website section to research consumer complaints there are no drop down boxes related to home inspectors but, there are a multitude of options when related to real estate agents and real estate transactions. When I read the first version of the bill I immediately called it "The Real Estate Agent Protection Act". Version three has not changed my opinion. Consumer protection is easily and cost effectively accomplished with 2 pages of education regarding the property buying endeavor. This idea will reduce the burden on the inspector and real estate agent for effective communication regarding the buying process. Lastly the prospective property buyer has a vast array of available resources through current technology to

locate a home inspector either via the inspector's professional association, a basic internet search or a service review website. By putting a wall on referrals between the buyer and real estate agent and letting the market place weed out the bad inspectors we will have accomplished the desired consumer protection.