

AMENDED IN ASSEMBLY MAY 9, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2418

Introduced by Assembly Member Dutra

February 21, 2002

An act to add Section 337.17 to the Code of Civil Procedure, relating to construction defect litigation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2418, as amended, Dutra. Construction defect litigation.

Existing law permits the registrar of contractors to discipline a contractor who has violated provisions of the Contractors' State License Law, which can include requiring the contractor to correct construction defects that are the result of the contractor being found to have violated provisions of the Contractors' State License Law. Existing law also provides for a comprehensive procedure that must be satisfied before a common interest development association commences an action for damages against a builder of a common interest development based on a claim of defects in design or construction.

This bill would state legislative findings relating to, among other things, a statewide housing crisis in California, the relatively low percentage of Californians who are able to buy median-priced homes, and the connection of construction defect litigation to a scarcity of insurance for, and construction of, condominiums and townhouses. The bill would state that California needs an alternative method to resolve legitimate construction disputes that will reduce the need for litigation while adequately protecting the rights of homeowners.

Existing law establishes a statute of limitations for the commencement of a civil action alleging certain defects in the construction of an improvement to real property.

This bill would prohibit the commencement of a civil action subject to those statutes of limitation unless, at least 90 days prior to the filing of the action, a notice is sent by the plaintiff property owner to the defendant builder that identifies the facts pertaining to the alleged deficiencies, and the builder is provided with a reasonable opportunity to inspect and repair the deficiencies.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) California has a statewide housing crisis.

4 (2) Nationally, nine of the 10 least affordable housing markets
5 are in California.

6 (3) A median-priced home in California costs more than
7 \$250,000, and only families earning at least twice the state’s
8 median income can afford it.

9 (4) Only 32 percent of Californians can afford the
10 median-priced home, while nationwide, 54 percent can afford a
11 median-priced home.

12 (5) In certain job centers around the state, such as San
13 Francisco, only 10 percent of the families can afford the
14 median-priced home.

15 (6) By 2003, only 20 percent of the households in Los Angeles
16 County will be able to afford a median-priced home in that county.

17 (7) Condominiums and townhouses have traditionally been a
18 source of housing designed for single people, young families, and
19 senior citizens.

20 (8) Over the last six years, the construction of this type of
21 housing for sale has declined 84 percent statewide.

22 (9) Research shows that an epidemic of construction defect
23 litigation has contributed significantly to a scarcity of insurance
24 for condominiums and townhouses and, ultimately, to a statewide
25 decline in their production. *Evidence indicates the insurance*



1 *problem is now prevalent for the construction of single-family*
2 *homes, adding to the housing problems in California.*

3 (b) California needs an alternative method to resolve legitimate
4 construction disputes that will reduce the need for litigation while
5 adequately protecting the rights of homeowners.

6 *SEC. 2. Section 337.17 is added to the Code of Civil*
7 *Procedure, to read:*

8 *337.17. No action that is subject to Section 337.1 or 337.15,*
9 *may be commenced unless, at least 90 days prior to filing the*
10 *action, a notice is sent by the plaintiff property owner to the*
11 *defendant builder that identifies the facts pertaining to the alleged*
12 *deficiencies. During this 90-day period and after the builder has*
13 *been granted a reasonable opportunity to inspect and repair the*
14 *deficiencies, the builder shall have a right to meet with the*
15 *property owner on the real property on which the defects are*
16 *alleged, in the presence of a neutral mediator, to attempt to resolve*
17 *any outstanding disputes and agree upon any remaining repairs.*

