

**Introduced by Senator Figueroa**January 30, 2002

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An act to amend Sections 7195 and 7197 of, and to add Section 7197.5 to, the Business and Professions Code, relating to home inspections.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1332, as introduced, Figueroa. Home inspectors.

Existing law regulates a person who performs home inspections for a fee. Existing law requires a home inspector to conduct a home inspection with the degree of care that a reasonably prudent home inspector would exercise. Under existing law, certain activities are listed as unfair business practices for a home inspector.

This bill would prohibit a person from holding himself or herself out as or using the title "certified home inspector" without fulfilling certain requirements. The bill would define a home inspection professional association and specify its duties in certifying home inspectors. The bill would require, on and after July 1, 2003, a certified home inspector to make disclosures in writing as to his or her qualifications, whether the certified home inspector carries liability insurance, and whether the home inspection report may be relied on by 3rd parties prior to commencing a home inspection. This bill would also add items to the list of unfair business practices for a home inspector.

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. Section 7195 of the Business and Professions  
2 Code is amended to read:

3 7195. For purposes of this chapter, the following definitions  
4 apply:

5 (a) (1) “Home inspection” is a noninvasive, physical  
6 examination, performed for a fee in connection with a transfer, as  
7 defined in subdivision (e), of real property, of the mechanical,  
8 electrical, or plumbing systems or the structural and essential  
9 components of a residential dwelling of one to four units designed  
10 to identify material defects in those systems, structures and  
11 components. “Home inspection” includes any consultation  
12 regarding the property that is represented to be a home inspection  
13 or any confusingly similar term.

14 (2) “Home inspection,” if requested by the client, may include  
15 an inspection of energy efficiency. Energy efficiency items to be  
16 inspected may include the following:

17 (A) A noninvasive inspection of insulation R-values in attics,  
18 roofs, walls, floors, and ducts.

19 (B) The number of window glass panes and frame types.

20 (C) The heating and cooling equipment and water heating  
21 systems.

22 (D) The age and fuel type of major appliances.

23 (E) The exhaust and cooling fans.

24 (F) The type of thermostat and other systems.

25 (G) The general integrity and potential leakage areas of walls,  
26 window areas, doors, and duct systems.

27 (H) The solar control efficiency of existing windows.

28 (b) A “material defect” is a condition that significantly affects  
29 the value, desirability, habitability, or safety of the dwelling. Style  
30 or aesthetics shall not be considered in determining whether a  
31 system, structure, or component is defective.

32 (c) A “home inspection report” is a written report prepared for  
33 a fee and issued after a home inspection. The report clearly  
34 describes and identifies the inspected systems, structures, or  
35 components of the dwelling, any material defects identified, and  
36 any recommendations regarding the conditions observed or  
37 recommendations for evaluation by appropriate persons.



1 (d) A “home inspector” is any individual who performs a  
2 home inspection.

3 (e) “Transfer” is a transfer by sale, exchange, installment land  
4 sales contract, as defined in Section 2985 of the Civil Code, lease  
5 with an option to purchase, any other option to purchase, or ground  
6 lease coupled with improvements, of real property or residential  
7 stock cooperative, improved with or consisting of not less than one  
8 nor more than four dwelling units.

9 (f) A “certified home inspector” means a person who meets all  
10 of the following:

11 (1) *Has performed at least 200 home inspections for which a fee*  
12 *was paid.*

13 (2) *Has passed a knowledge, skills, and aptitude examination*  
14 *administered by a home inspection professional association.*

15 (g) A “home inspection professional association” means an  
16 organization that meets all of the following:

17 (1) *Has at least 200 members who are home inspectors in*  
18 *California.*

19 (2) *Has been in existence for at least 10 years.*

20 (3) *Operates pursuant to Section 501(c) of the Internal*  
21 *Revenue Code.*

22 (4) *Certifies home inspectors without requiring membership in*  
23 *the association.*

24 SEC. 2. Section 7197 of the Business and Professions Code  
25 is amended to read:

26 7197. It is an unfair business practice for a home inspector, a  
27 company that employs the inspector, or a company that is  
28 controlled by a company that also has a financial interest in a  
29 company employing a home inspector, to do any of the following:

30 (a) To perform or offer to perform, for an additional fee, any  
31 repairs to a structure on which the inspector, or the inspector’s  
32 company, has prepared a home inspection report in the past 12  
33 months, *except that a home protection company that is affiliated*  
34 *with or that retains a home inspector does not violate this section*  
35 *if it performs repairs pursuant to a claim made under a home*  
36 *protection contract.*

37 (b) Inspect for a fee any property in which the inspector, or the  
38 inspector’s company, has any financial interest or any interest in  
39 the transfer of the property.



1 (c) To offer or deliver any compensation, inducement, or  
2 reward to the owner of the inspected property, the broker, or agent,  
3 for the referral of any business to the inspector or the inspection  
4 company.

5 (d) Accept an engagement to make an inspection or to prepare  
6 a report in which the employment itself or the fee payable for the  
7 inspection is contingent upon the conclusions in the report,  
8 preestablished findings, or the close of escrow.

9 ~~(e) A home protection company that is affiliated with or that  
10 retains the home inspector does not violate this section if it  
11 performs repairs pursuant to claims made under the home  
12 protection contract. On or after July 1, 2003, to hold oneself out  
13 or use the title "certified home inspector" without meeting the  
14 requirements of subdivision (f) of Section 7195.~~

15 (f) To state or advertise a registration or license number unless  
16 the license or registration is specified by a statute, regulation, or  
17 ordinance.

18 (g) To state or advertise that he or she is certified, registered,  
19 or licensed by a governmental agency to perform home  
20 inspections.

21 (h) To misrepresent any item required to be disclosed in Section  
22 7197.5.

23 SEC. 3. Section 7197.5 is added to the Business and  
24 Professions Code, to read:

25 7197.5. As soon as it is commercially feasible and prior to  
26 commencing a home inspection, and a certified home inspector  
27 shall disclose in writing to the party on whose behalf the home  
28 inspection is being done, all of the following:

29 (a) The name, address, and telephone number of the home  
30 inspection professional association that certified the home  
31 inspector, and the date the home inspector was certified.

32 (b) A statement disclosing whether the home inspector  
33 maintains professional liability insurance and the policy limit of  
34 the coverage.

35 (c) A statement disclosing whether the home inspector  
36 maintains general business liability insurance and the policy limit  
37 of the coverage.

38 (d) A statement disclosing whether any report generated by the  
39 home inspector can be relied upon by a third party who is identified



1 by name or class and that the parties may agree to include such a  
2 provision in the agreement.

3 (e) The approximate number of home inspections the home  
4 inspector has performed for a fee.

5 (f) A statement of the home inspector's experience and  
6 education, including the number of years of experience as a home  
7 inspector, education related to home inspection, and any courses  
8 completed in the last three years relating to home inspection.

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