

AMENDED IN SENATE APRIL 1, 2002

AMENDED IN SENATE MARCH 6, 2002

SENATE BILL

No. 1332

Introduced by Senator Figueroa

(Coauthors: Senators Escutia, Johannessen, and Romero)

(Coauthors: Assembly Members Alquist, Aroner, Chavez, Correa,
Jackson, Longville, and Pavley)

January 30, 2002

An act to amend Sections 7195 and 7197 of, and to add ~~Section~~
Sections 7196.2 and 7197.5 to, the Business and Professions Code,
relating to home inspections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1332, as amended, 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 or after July 1, 2003, a home inspector to make disclosures in writing as to his or her qualifications, whether the 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



1 describes and identifies the inspected systems, structures, or
2 components of the dwelling, any material defects identified, and
3 any recommendations regarding the conditions observed or
4 recommendations for evaluation by appropriate persons.

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

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

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

15 (1) Has performed at least 200 home inspections for which a fee
16 was paid.

17 (2) Has passed a knowledge, skills, and aptitude examination
18 administered by a home inspection professional association.

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

21 (1) Has at least 200 members who are home inspectors in
22 California.

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

24 (3) Operates pursuant to Section 501(c) of the Internal Revenue
25 Code.

26 (4) Certifies home inspectors without requiring membership in
27 the association.

28 *SEC. 2. Section 7196.2 is added to the Business and*
29 *Professions Code, to read:*

30 *7196.2. A person representing himself or herself as a home*
31 *inspector shall comply with the requirements of subdivision (d) of*
32 *Section 8550.*

33 *SEC. 3. Section 7197 of the Business and Professions Code is*
34 *amended to read:*

35 *7197. It is an unfair business practice for a home inspector, a*
36 *company that employs the inspector, or a company that is*
37 *controlled by a company that also has a financial interest in a*
38 *company employing a home inspector, to do any of the following:*

39 (a) To perform or offer to perform, for an additional fee, any
40 repairs to a structure on which the inspector, or the inspector’s



1 company, has prepared a home inspection report in the past 12
2 months, except that a home protection company that is affiliated
3 with or that retains a home inspector does not violate this section
4 if it performs repairs pursuant to a claim made under a home
5 protection contract.

6 (b) Inspect for a fee any property in which the inspector, or the
7 inspector's company, has any financial interest or any interest in
8 the transfer of the property.

9 (c) To offer or deliver any compensation, inducement, or
10 reward to the owner of the inspected property, the broker, or agent,
11 for the referral of any business to the inspector or the inspection
12 company.

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

17 (e) On or after July 1, 2003, to hold oneself out or use the title
18 "certified home inspector" without meeting the requirements of
19 subdivision (f) of Section 7195.

20 (f) To state or advertise a registration or license number unless
21 the license or registration is specified by a statute, regulation, or
22 ordinance.

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

25 (h) To fail to disclose or misrepresent any item required to be
26 disclosed in Section 7197.5.

27 ~~SEC. 3.~~

28 *SEC. 4.* Section 7197.5 is added to the Business and
29 Professions Code, to read:

30 7197.5. As soon as it is commercially feasible and prior to
31 commencing a home inspection, a home inspector shall disclose
32 in writing to the party on whose behalf the home inspection is
33 being done, all of the following:

34 (a) The name, address, and telephone number of the home
35 inspection professional association that certified the home
36 inspector, and the date the home inspector was certified, unless the
37 home inspector is not a certified home inspector.

38 (b) A statement disclosing whether the home inspector
39 maintains professional liability insurance.



1 (c) A statement disclosing whether the home inspector
2 maintains general business liability insurance.

3 (d) A statement disclosing whether any report generated by the
4 home inspector can be relied upon by a third party who is identified
5 by name or class and that the parties may agree to include such a
6 provision in the agreement.

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

9 (f) A statement of the home inspector's experience and
10 education, including the number of years of experience as a home
11 inspector, education related to home inspection, and any courses
12 completed in the last three years relating to home inspection.

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