

**Introduced by Senator Machado**

February 22, 2002

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An act to amend ~~Section 7195~~ Sections 5588 and 5589 of the Business and Professions Code, relating to ~~home inspectors~~ architects.

LEGISLATIVE COUNSEL'S DIGEST

SB 2034, as amended, Machado. ~~Home inspectors~~ Architects.

*Existing law, the Architects Practice Act, regulates the practice of architecture through the California Architects Board. Existing law requires an architect, and an insurer that provides professional liability insurance to an architect, to send a report to the board on any settlement or arbitration award in excess of \$5,000.*

*This bill would increase the minimum amount of a settlement or arbitration award that is required to be reported to \$10,000.*

~~Existing law regulates, with specified exceptions, a person who performs home inspections for a fee.~~

~~This bill would make nonsubstantive changes to these provisions.~~

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 ~~SECTION 1. Section 5588 of the Business and Professions~~
- 3 ~~Code is amended to read:~~
- 4 ~~5588. Every insurer providing professional liability insurance~~
- 5 ~~to a holder of a license, and every license holder, shall send a~~

1 complete report to the board on any settlement or arbitration award  
2 in excess of ~~five~~ *ten* thousand dollars ~~(\$5,000)~~ *(\$10,000)* of a claim  
3 or action for damages caused by the license holder’s fraud, deceit,  
4 negligence, incompetency, or recklessness in practice. The report  
5 shall be sent within 30 days after the settlement agreement has  
6 been consented to by the insured or within 30 days after service of  
7 the arbitration award on the parties.

8 *SEC. 2. Section 5589 of the Business and Professions Code is*  
9 *amended to read:*

10 5589. Every settlement or arbitration award in excess of ~~five~~  
11 *ten* thousand dollars ~~(\$5,000)~~ *(\$10,000)* of a claim or action for  
12 damages caused by the license holder’s fraud, deceit, negligence,  
13 incompetency, or recklessness in practice when the license holder  
14 does not possess professional liability insurance as to that claim  
15 shall, within 30 days after any settlement agreement has been  
16 consented to by the license holder or 30 days after service of the  
17 arbitration award on the parties, be reported to the board. A  
18 complete report shall be made by appropriate means by the license  
19 holder or his or her counsel, with a copy of the communication to  
20 be sent to the claimant through his or her counsel if he or she is so  
21 represented, or directly if he or she is not. If, within 45 days of the  
22 conclusion of the settlement agreement or service of the arbitration  
23 award on the parties, counsel for the claimant, or if he or she is not  
24 represented by counsel, the claimant himself or herself, has not  
25 received a copy of the report, he or she shall himself or herself  
26 make a complete report. Failure of the license holder or claimant  
27 or, if represented by counsel, their counsel, to comply with the  
28 provisions of this section shall be a misdemeanor punishable by a  
29 fine of not less than one hundred dollars (\$100) or more than one  
30 thousand dollars (\$1,000). Knowing and intentional failure to  
31 comply with the provisions of this section, or conspiracy or  
32 collusion not to comply with the provisions of this section, or to  
33 hinder or impede any other person in the compliance with this  
34 section shall be a misdemeanor punishable by a fine of not less than  
35 ten thousand dollars (\$10,000) or more than one hundred thousand  
36 dollars (\$100,000).

37 ~~Code is amended to read:~~

38 ~~7195. For purposes of this chapter, the following definitions~~  
39 ~~apply:~~



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

10 ~~(2) “Home inspection,” if requested by the client, may include~~  
11 ~~an inspection of energy efficiency. Energy efficiency items to be~~  
12 ~~inspected may include the following:~~

13 ~~(A) A noninvasive inspection of insulation R-values in attics,~~  
14 ~~roofs, walls, floors, and ducts.~~

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

16 ~~(C) The heating and cooling equipment and water heating~~  
17 ~~systems.~~

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

19 ~~(E) The exhaust and cooling fans.~~

20 ~~(F) The type of thermostat and other systems.~~

21 ~~(G) The general integrity and potential leakage areas of walls,~~  
22 ~~window areas, doors, and duct systems.~~

23 ~~(H) The solar control efficiency of existing windows.~~

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

28 ~~(c) A “home inspection report” is a written report prepared for~~  
29 ~~a fee and issued after a home inspection. The report clearly~~  
30 ~~describes and identifies the inspected systems, structures, or~~  
31 ~~components of the dwelling, any material defects identified, and~~  
32 ~~any recommendations regarding the conditions observed or~~  
33 ~~recommendations for evaluation by an appropriate person.~~

34 ~~(d) A “home inspector” is any individual who performs a~~  
35 ~~home inspection.~~

36 ~~(e) “Transfer” is a transfer by sale, exchange, installment land~~  
37 ~~sales contract, as defined in Section 2985 of the Civil Code, lease~~  
38 ~~with an option to purchase, any other option to purchase, or ground~~  
39 ~~lease coupled with improvements, of real property or residential~~



- 1 ~~stock cooperative, improved with or consisting of not less than one~~
- 2 ~~nor more than four dwelling units.~~

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