

AMENDED IN ASSEMBLY MAY 15, 2000

AMENDED IN ASSEMBLY MAY 4, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2112

Introduced by Assembly Member Dutra

February 22, 2000

An act to amend Sections 7019, 7019.1, 7030, 7085, 7090, 7091, and 7111 of, to add Sections 7026.15 and 7086 to, and to add Chapter 4 (commencing with Section 17800) to Part 3 of Division 7 of, the Business and Professions Code, to amend Sections 1351, 1354, 1355.5, 1356, 1357, 1364, 1365, 1365.7, 1368, 1368.4, 1375, and 1375.1 of the Civil Code, to amend Sections 1298 and 1298.7 of the Code of Civil Procedure, and to amend Section 120 of the Insurance Code, relating to new home warranties.

LEGISLATIVE COUNSEL'S DIGEST

AB 2112, as amended, Dutra. Home warranty program.

~~(1) Existing~~

Existing law permits the registrar of contractors to investigate and discipline a contractor who has violated provisions of the Contractors' State License Law, which discipline 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.

This bill would express the Legislature's findings and declarations ~~relating to a lack of construction of affordable housing, and that there is a substantial need for a highly effective state sanctioned 10-year new home warranty program to provide both a process for resolving claims and a mechanism to ensure quality design and construction~~ *regarding a statewide home building crisis in California and the desire of Californians to be able to buy homes from reliable builders. This bill also would state legislative intent that Californians have access to high quality, affordable homes.*

~~This bill would establish the California Homebuyer Protection and Quality Construction Act of 2001. The bill would permit a licensed contractor to apply to the Contractors' State License Board to be certified as a participating home builder, which would mean that the contractor could issue a California Home Construction Warranty, as defined. The bill would require the Contractors' State License Board to promulgate regulations and to annually review the certification, as specified.~~

~~The bill would require a California Home Construction Warranty to meet specified minimum standards and procedures. The bill would permit a participating home builder to issue a California Home Construction Warranty on new residential housing, including a home that is part of a common interest development, where the purchaser secured title on or after January 1, 2001. The bill would provide that a California Home Construction Warranty applies for a minimum of 10 years, and is binding on subsequent purchasers during the term of the warranty.~~

~~The bill would define "construction defects." The bill would define "correction of any construction defect" to include repair, replacement, or payment of reasonable cost to repair or replace, pursuant to existing construction codes and standards of construction practice in effect at the time of the original construction, or at the builder's option, subject to the dispute resolution provisions of the warranty, either rebuilding the structure in accordance with the original plans and specifications, and any modifications, as specified, or paying the reasonable value of the property plus relocation costs.~~



~~The bill would permit a California Home Construction Warranty to provide for alternative dispute resolution, as specified, for claims covered under the warranty. The bill would provide that if a homeowner elects by contract to purchase a home subject to a California Home Construction Warranty, the contractual provisions of that warranty shall be deemed to be the exclusive election of recourse by the homeowner and the participating homebuilder for the claims covered by the warranty. The bill would provide that the parties to a California Home Construction Warranty are deemed to have waived any tort remedies, including negligence, strict liability, implied warranties, or any other common law remedy other than for breach of warranty contract and the provisions therein. The bill would provide that the waiver does not preclude or limit any right of action for bodily injury, wrongful death, or fraud and intentional misrepresentation. The bill would also provide that to the extent that a California Home Construction Warranty does not contain coverage for alleged defects, there would be no election of recourse, and that the homeowner, if the warranty provides, waives any noncontractual claims against any design, professional, or trade contractors covered by the warranty who performed professional services or works of improvement on the subject property.~~

~~The bill would require a participating home builder to have a program of quality assurance, as specified.~~

~~This bill would provide that a homeowner's rejection of a builder's reasonable offer during the dispute resolution process would limit recovery, as specified. The bill would further provide that limitations on damages, as specified, would not apply if a builder fails to make a reasonable offer during the dispute resolution process or fails to complete repairs, as specified. The bill would also provide that if a builder does not take reasonable steps in a reasonable time to correct a defect creating an imminent threat to the inhabitants of a house the homeowner may correct the defect and recover from the builder, as specified.~~

~~(2) Existing law provides specified procedures relating to binding arbitration provisions in any contract to convey real property. Existing law also provides in the event of an~~



~~arbitration provision in a contract to convey real property, it shall not preclude or limit any right of action for bodily injury or wrongful death or for any right of action as specified or actions for damages relating to design specifications, surveying, planning supervision or observation of construction or construction improvement to real property, or latent deficiencies, in the construction or construction improvement of real property.~~

~~This bill would provide that the procedures regarding binding arbitration provisions in contracts to convey real property may apply to a dispute that arises under a California Home Construction Warranty that may apply to the real property in question. This bill would also provide instead that an arbitration provision shall not preclude or limit any right of action to actions for bodily injury or wrongful death.~~

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

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

- 1 ~~SECTION 1. — Section 7019 of the Business and~~
- 2 *SECTION 1. (a) The Legislature finds and declares*
- 3 *the following:*
- 4 *(1) California has a statewide home building crisis.*
- 5 *(2) Californians want to buy homes from builders who*
- 6 *are willing and able to stand behind their work.*
- 7 *(b) It is the intent of the Legislature that Californians*
- 8 *should have access to affordable homes that incorporate*
- 9 *high quality construction.*

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All matter omitted in this version of the bill appears in the bill as amended in the Assembly, May 4, 2000 (JR 11)

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