

Chapter 9.3

HOME INSPECTORS

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*Chapter 9.3 was added by Stats.1996, c. 338 (S.B.258), § 2.*

Historical and Statutory Notes

1996 Legislation  
Section 1 of Stats.1996, c. 338 (S.B.258), provides:

“It is the intent of the Legislature in enacting this act to assure that consumers of home inspection services can rely upon the competence of home inspectors. It is the intent of the Legislature that, in ascertaining the degree of care that would be exercised

by a reasonably competent home inspector pursuant to Section 7196 of the Business and Professions Code, the court may consider the standards of practice and code of ethics of the California Real Estate Inspection Association, the American Society of Home Inspectors, or other nationally recognized professional home inspection associations.”

§ 7195. Definitions

For the purposes of this chapter, the following definitions apply:

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

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

- (A) A noninvasive inspection of insulation R-values in attics, roofs, walls, floors, and ducts.
- (B) The number of window glass panes and frame types.
- (C) The heating and cooling equipment and water heating systems.
- (D) The age and fuel type of major appliances.
- (E) The exhaust and cooling fans.
- (F) The type of thermostat and other systems.
- (G) The general integrity and potential leakage areas of walls, window areas, doors, and duct systems.
- (H) The solar control efficiency of existing windows.

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

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

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

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

§ 7199

BUSINESS AND PROFESSIONS CODE

§ 7196. Standard of care

It is the duty of a home inspector who is not licensed as a general contractor, structural pest control operator, or architect, or registered as a professional engineer to conduct a home inspection with the degree of care that a reasonably prudent home inspector would exercise.

§ 7196.1. Construction and application of chapter; certain professions

(a) Nothing in this chapter shall be construed to allow home inspectors who are not registered engineers to perform any analysis of the systems, components, or structural integrity of a dwelling that would constitute the practice of civil, electrical, or mechanical engineering, or exempt a home inspector from Chapter 3 (commencing with section 5500), Chapter 7 (commencing with Section 6700), Chapter 9 (commencing with section 7000), or Chapter 14 (commencing with Section 8500) of Division 3.

(b) This chapter does not apply to a registered engineer, licensed land surveyor, or licensed architect acting pursuant to this or her professional registration or license, nor does it affect the obligations of a real estate licensee or transferor under Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 3 of Division 2 of, or Article 2 (commencing with Section 2079) of Chapter 3 of Title 6 of Part 4 of Division 3 of, the Civil Code.

§ 7197. Unfair business practices

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

(a) To perform or offer to perform, for an additional fee, any repairs to a structure on which the inspector, or the inspector's company, has performed a home inspection report in the past 12 months.

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

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

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

(e) A home protection company that is affiliated with or that retains the home inspector does not violate this section if it performs repairs pursuant to claims made under the home protection contract.

§ 7198. Waiver of duty of care; liability limitations; public policy

Contractual provisions that purport to waive the duty owed pursuant to Section 7196 or to limit the liability of the home inspector to the cost of the home inspection report, are contrary to public policy and invalid.

§ 7199. Commencement of legal actions; time

The time for commencement of a legal action for breach of duty arising from a home inspection report shall not exceed four years from the date of the inspection.