

AMENDED IN SENATE MAY 24, 2005

AMENDED IN ASSEMBLY APRIL 28, 2005

AMENDED IN ASSEMBLY APRIL 20, 2005

AMENDED IN ASSEMBLY MARCH 17, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 293

Introduced by Assembly Member Maze

February 9, 2005

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

LEGISLATIVE COUNSEL'S DIGEST

AB 293, as amended, Maze. Home inspections.

Existing law regulates persons who perform home inspections for a fee in connection with a property transfer, as defined. Existing law defines terms related to home inspections, establishes a standard of care for home inspectors, and prohibits certain inspections in which an inspector or the inspector's employer has a financial interest.

This bill would provide that a home inspector may name a seller, real estate broker, or a real estate salesperson as an additional insured in a liability insurance policy.

This bill would require a home inspector or a company that employs home inspectors to provide a specified written disclosure to the party on whose behalf the inspection is being performed.

This bill would make it an unfair business practice for a home inspector or a company that employs home inspectors to fail to make those disclosures or to disclose personal identifying information of a person involved in an inspection.

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 7197 of the Business and Professions
2 Code is amended to read:

3 7197. (a) It is an unfair business practice for a home
4 inspector, a company that employs the inspector, or a company
5 that is controlled by a company that also has a financial interest
6 in a company employing a home inspector, to do any of the
7 following:

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

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

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

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

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

27 (6) To fail to disclose or misrepresent any item required to be
28 disclosed in Section 7197.5.

29 (7) To disclose personal identifying information, including,
30 but not limited to, the name, address, telephone number, state or
31 federal driver's license number, social security number, or
32 taxpayer identification number, of a buyer, seller, tenant, or
33 others involved in the inspection without the approval of the
34 individual or individuals involved.

1 (b) This section shall not affect the ability of a structural pest
2 control operator to perform repairs pursuant to Section 8505 as a
3 result of a structural pest control inspection.

4 (c) Nothing in this section shall prevent a home inspector from
5 naming a seller, a real estate broker, or a real estate salesperson
6 as an additional insured in a liability insurance policy maintained
7 by the home inspector.

8 SEC. 2. Section 7197.5 is added to the Business and
9 Professions Code, to read:

10 7197.5. (a) As soon as it is commercially feasible and prior to
11 commencing a home inspection, a home inspector shall provide a
12 written disclosure to the party, or the party's agent, on whose
13 behalf the home inspection is being performed that includes the
14 following:

15 (1) Whether the home inspector maintains professional
16 liability insurance.

17 (2) Whether the home inspector maintains general business
18 liability insurance.

19 (3) The approximate number of home inspections the home
20 inspector has performed for a fee, or a statement of the home
21 inspector's experience and education, including the number of
22 years of his or her experience as a home inspector, and his or her
23 education related to home inspection, specifically including the
24 number of educational hours completed and the educational
25 facility or facilities he or she attended.

26 (4) Affiliations with any professional and nonprofit trade
27 associations.

28 (5) A list of any home inspection-specific examinations the
29 home inspector has passed.

30 (6) Any state-issued licenses he or she possesses that may be
31 applicable to home inspections.

32 (7) A statement that home inspectors are not required to be
33 licensed by state law.

34 (b) Instead of the written disclosure specified in subdivision
35 (a), a company that employs more than one home inspector may
36 provide one written disclosure that includes all of the following:

37 (1) *Whether the company maintains professional liability*
38 *insurance.*

39 (2) *Whether the company maintains general business liability*
40 *insurance.*

- 1 (3) The number of years of service the company has been
- 2 providing home inspections.
- 3 ~~(2)~~
- 4 (4) The approximate number of home inspections completed
- 5 by the company.
- 6 ~~(3)~~
- 7 (5) The minimum number of hours of education and training
- 8 the company's home inspectors receive before they are permitted
- 9 to conduct home inspections.
- 10 ~~(4)~~
- 11 (6) Whether the company or any of its employees belong to
- 12 any professional or nonprofit trade associations.
- 13 ~~(5)~~
- 14 (7) Whether the company or any of its employees possess any
- 15 applicable state licenses.
- 16 *(c) The written disclosure, as specified in subdivision (b) of*
- 17 *this section, by a home inspection franchise business, shall only*
- 18 *include information pertaining to work done by home inspectors*
- 19 *working at that individual franchise and shall not contain*
- 20 *information relating to work done by home inspectors at other*
- 21 *franchise locations.*