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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.*)

CHAPTER 9.3. Home Inspectors [7195 - 7199] (*Chapter 9.3 added by Stats. 1996, Ch. 338, Sec. 2.*)

7195. For 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 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) In connection with the transfer, as defined in subdivision (e), of real property with a swimming pool or spa, an appropriate inspection shall include a noninvasive physical examination of the pool or spa and dwelling for the purpose of identifying which, if any, of the seven drowning prevention safety features listed in subdivision (a) of Section 115922 of the Health and Safety Code the pool or spa is equipped, in good repair, operable as designed, and, if applicable, appropriately labeled, as required by Section 115922 of the Health and Safety Code. This paragraph does not require a determination as to whether a pool safety feature meets the ASTM International and American Society of Mechanical Engineers specifications referenced in Section 115922 of the Health and Safety Code.

(3) "Home inspection," if requested by the client, may include an 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. In a dwelling with a pool or spa, the report shall identify which, if any, of the seven drowning prevention safety features listed in subdivision (a) of Section 115922 of the Health and Safety Code the pool or spa is equipped with and shall specifically state if the pool or spa has fewer than two of the listed drowning prevention safety features, and whether those features are in place, in good repair, operable as designed,

and, if applicable, appropriately labeled, as required by Section 115922 of the Health and Safety Code. The report shall also include a written statement that a pool isolation fence, as described in Section 115923 of the Health and Safety Code, is the most studied and effective drowning prevention safety feature for preventing a child from accessing a pool or spa unsupervised, according to the American Academy of Pediatrics Policy Statement, "Prevention of Drowning," published in 2019. This subdivision does not require a determination as to whether a pool safety feature meets the ASTM International and American Society of Mechanical Engineers specifications referenced in Section 115922 of the Health and Safety Code.

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

(e) "Transfer" is a transfer by sale, exchange, installment land sales 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.

(Amended by Stats. 2024, Ch. 769, Sec. 2. (SB 552) Effective January 1, 2025.)

7195.5. (a) For purposes of improving landscape water use and irrigation efficiency, a home inspection report on a dwelling unit prepared pursuant to this chapter on a parcel containing an in-ground landscape irrigation system, the operation of which is under the exclusive control of the owner or occupant of the dwelling, may include an irrigation system inspection report, prepared by either a home inspector or certified landscape irrigation auditor, that contains all of the following:

(1) Examination of the irrigation system controller, if present, noting observable defects in installation or operation, or both.

(2) Activation of each zone or circuit providing irrigation water to turf grass, noting malfunctions observed in the operation of each of the following:

(A) The irrigation valve.

(B) Visible irrigation supply piping.

(C) Sprinkler heads and stems.

(3) During activation of the system pursuant to paragraph (2), observation of any of the following during the period of operation, in minutes, specified in the report:

(A) Irrigation spray being directed to hardscape.

(B) Irrigation water leaving the irrigated area as surface runoff.

(C) Ponding of irrigation water on the surface of the irrigated area.

(4) Notation whether inspection is limited due to snow, ice, or other site conditions that impede an inspection.

(b) Notwithstanding any other law, a sanction or penalty regarding prohibited hours, days, or effects of operation of a landscape irrigation system shall not be levied upon either the home inspector, the landscape irrigation auditor, the occupant, or the owner of a property by any state or local agency or water purveyor as a consequence of the operation of a landscape irrigation system for the purpose of an irrigation system inspection carried out under this section.

(c) A home inspector is encouraged to provide information or access to information regarding water-efficient landscape irrigation systems within the home inspection report.

(d) To the extent funds are available, the Department of Water Resources, in consultation with the California Real Estate Inspection Association and the Department of Housing and Community Development, shall compile an estimate of the number of properties for which an irrigation system inspection report has been prepared each year, beginning with 2018, for inclusion in an update to the California Water Plan.

(Added by Stats. 2018, Ch. 867, Sec. 3. (AB 2371) Effective January 1, 2019.)

7195.7. A home inspector shall not give an opinion of valuation on a property.

(Added by Stats. 2019, Ch. 267, Sec. 1. (AB 1018) Effective January 1, 2020.)

7196. 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.

(Added by Stats. 1996, Ch. 338, Sec. 2. Effective January 1, 1997.)

7196.1. (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 to exempt a home inspector from Chapter 3 (commencing with Section 5500), Chapter 7 (commencing with Section 6700), Chapter 9 (commencing with Section 7000), Chapter 14 (commencing with Section 8500) of Division 3, or Part 3 (commencing with Section 11300) of Division 4.

(b) This chapter does not apply to a registered engineer, licensed land surveyor, or licensed architect acting pursuant to their 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.

(c) Except as required to comply with standards set forth in law or regulation, a real estate appraiser licensed under Part 3 (commencing with Section 11300) of Division 4, performing a real estate appraisal, shall not engage in the activity of a home inspector performing a home inspection.

(Amended by Stats. 2019, Ch. 267, Sec. 2. (AB 1018) Effective January 1, 2020.)

7196.2. (a) If a home inspector observes any shade of yellow corrugated stainless steel tubing during a home inspection, the home inspector shall include that observation, and the following notification, in the home inspection report:

"Manufacturers of yellow corrugated stainless steel tubing believe that yellow corrugated stainless steel tubing is safer if properly bonded and grounded as required by the manufacturer's installation instructions. Proper bonding and grounding of this product can only be determined by a licensed electrical contractor."

(b) For purposes of this section, "corrugated stainless steel tubing" means a flexible, stainless steel pipe used to supply natural gas and propane in residential, commercial, and industrial structures.

(c) The degree of care specified in Section 7196 shall be used in determining whether a home inspector has complied with the requirements of subdivision (a).

(Added by Stats. 2018, Ch. 225, Sec. 2. (SB 988) Effective January 1, 2019.)

7197. (a) It is an unfair business practice for a home inspector, a company that employs the 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:

(1) 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 prepared a home inspection report in the past 12 months.

(2) 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.

(3) 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.

(4) Accept an engagement to make an inspection or to 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.

(b) 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.

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

(d) Paragraph (1) of subdivision (a) shall not affect the ability of a roofing contractor who holds a C-39 license, as defined in Section 832.39 of Title 16 of the California Code of Regulations, to perform repairs pursuant to the contractor's inspection of a roof for the specific purpose of providing a roof certification if all of the following conditions are met:

(1) Different employees perform the home inspection and the roof inspection.

(2) The roof inspection is ordered prior to, or at the same time as, the home inspection, or the roof inspection is completed before the commencement of the home inspection.

(3) The consumer is provided a consumer disclosure before the consumer authorizes the home inspection that includes all of the following:

(A) The same company that performs the roof inspection and roof repairs will perform the home inspection on the same property.

(B) Any repairs that are authorized by the consumer are for the repairs identified in the roofing contractor's roof inspection report and no repairs identified in the home inspection are authorized or allowed as specified in the roof inspection.

(C) The consumer has the right to seek a second opinion.

(4) For purposes of this subdivision, "roof certification" means a written statement by a licensed C-39 Roofing Contractor who has performed a roof inspection, made any necessary repairs, and warrants that the roof is free of leaks at the time that the certification is issued and should perform as designed for the specified term of the certification.

(e) Paragraph (1) of subdivision (a) shall not affect the ability of a plumbing contractor who holds a C-36 license, as defined in Section 832.36 of Title 16 of the California Code of Regulations, to perform repairs pursuant to the inspection of a sewer lateral pipe connecting a residence or business to a sewer system if the consumer is provided a consumer disclosure before the consumer authorizes the home inspection that includes all of the following notifications:

(1) The same company that performs the sewer lateral inspection and the sewer lateral repairs will perform the home inspection on the same property.

(2) Any repairs that are authorized by the consumer are for the repairs identified in the sewer lateral inspection report and no repairs identified in the home inspection report are authorized or allowed except as specified in the sewer lateral inspection report.

(3) The consumer has the right to seek a second opinion on the sewer lateral inspection.

(Amended by Stats. 2021, Ch. 545, Sec. 1. (SB 484) Effective January 1, 2022.)

7198. Contractual provisions that purport to waive the duty owed pursuant to Section 7196, or limit the liability of the home inspector to the cost of the home inspection report, are contrary to public policy and invalid.

(Added by Stats. 1996, Ch. 338, Sec. 2. Effective January 1, 1997.)

7199. 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.

(Added by Stats. 1996, Ch. 338, Sec. 2. Effective January 1, 1997.)