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AB-1357 Home inspectors: roofing contractors: roof inspections. (2017-2018)

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Assembly Bill No. 1357

CHAPTER 508

An act to amend Section 7197 of the Business and Professions Code, and to amend Section 1102.4 of the Civil Code, relating to home inspectors.

[Approved by Governor October 05, 2017. Filed with Secretary of State October 05, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1357, Chu. Home inspectors: roofing contractors: roof inspections.

Existing law regulates a person who performs certain home inspections for a fee. Existing law provides that 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 various acts, including performing or offering 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.

This bill would exempt from these provisions a licensed roofing contractor that performs repairs pursuant to his or her inspection of a roof for the specific purpose of providing a roof certification, as defined, if specified conditions are met.

Existing law requires the disclosure of specified information upon the transfer of residential real property or the resale of a manufactured home or mobilehome that is classified as personal property and intended for residential use. Existing law exempts a listing or selling agent from liability for any error, inaccuracy, or omission of any information if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or listing or selling agent, was based on information provided by public agencies or by other persons, including a report or opinion prepared by a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, or other expert, dealing with matters within the scope of the professional's license and providing information that is required to be disclosed, and ordinary care was exercised in obtaining and transmitting the information.

This bill would include a report or opinion, prepared by a C-39 roofing contractor who conducts a home inspection under specified circumstances, among those reports or opinions upon which a listing or selling agent may base his or her personal knowledge in order to be exempt from liability for any error, inaccuracy, or omission in the information that is required to be disclosed upon the transfer of residential real property.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7197 of the Business and Professions Code is amended to read:

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 he or she 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.

SEC. 2. Section 1102.4 of the Civil Code is amended to read:

1102.4. (a) Neither the transferor nor any listing or selling agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or that listing or selling agent, was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting it.

(b) The delivery of any information required to be disclosed by this article to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the transferor or any listing or selling agent of any further duty under this article with respect to that item of information.

(c) The delivery of a report or opinion prepared by a licensed engineer, land surveyor, geologist, structural pest control operator, contractor, a C-39 roofing contractor conducting a roof inspection pursuant to subdivision (d) of Section 7197 of the Business and Professions Code, or other expert, dealing with matters within the scope of the professional's license or expertise, shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective transferee pursuant to a request therefor, whether written or oral. In responding to such a request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1102.6 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished is applicable. Where such a statement

is furnished, the expert shall not be responsible for any items of information, or parts thereof, other than those expressly set forth in the statement.