

## Historical and Statutory Notes, 1996 Legislation

Senate Bill 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 (C.R.E.I.A.), the American Society of Home Inspectors (A.S.H.I.), or other nationally recognized professional home inspection associations.”*

## CALIFORNIA BUSINESS & PROFESSIONS CODE

### SECTION 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.

### SECTION 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 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) (Energy Inspections)

(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) (Inspection Report)

(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.

### Simplified:

A Home Inspection is a physical examination of a residential property, that does not cause damage to the property, by anyone, with or without qualification that acts like a home inspector and gets paid for doing it, in connection with a sale, exchange or installment land sale. For personal liability purposes, the Home Inspector should follow an acceptable standards of practice"

### \*Note:

CREIA and ASHI "standards of practice" don't meet the State definition of "Material Defect"