

SA2006RF0009

January 9, 2006

VIA MESSENGER

Office of the Attorney General
1300 "T" Street
Sacramento, CA 95814

Attention: Tricia Knight

Re: *The Safe and Sound Homes Act of 2006*

Dear Ms. Knight:

Pursuant to Elections Code section 9002, we request that the Attorney General prepare a title and summary of a measure entitled "The Safe and Sound Homes Act of 2006." The text of the measure, a check for \$200.00 and the address at which we are registered to vote are enclosed.

Please direct all correspondence and inquiries regarding this measure to:

James C. Harrison
Roberta B. Johansen
Remcho, Johansen & Purcell
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
FAX: (510) 346-6201

Sincerely,

James C. Harrison

Roberta B. Johansen

RECEIVED
JAN 10 2006

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

SAFE AND SOUND HOMES ACT OF 2006

SECTION 1. TITLE.

This measure shall be known as the "Safe and Sound Homes Act of 2006."

SECTION 2. FINDINGS AND DECLARATIONS.

The people of California find and declare the following:

- A. The requirements of the building code are intended to protect the health, safety, and welfare of the public.
- B. Failure to conform to the requirements of the building code can cause significant loss of property, personal injuries, and in some cases, loss of life.
- C. Builders often cut corners, violate the applicable building codes and neglect to follow good construction practices, particularly in boom times of construction and in large construction tracts common in California.
- D. As a result of these actions, unsuspecting homeowners are forced to live in homes that are not up to code and are subject to a risk of significant property loss and personal injuries, particularly during times of natural and man made disasters such as earthquakes, flooding and fire.
- E. During the infamous Northridge earthquake, the majority of damage was not the result of the quake itself but of construction that did not comply with applicable building codes.
- F. The cost of this neglect is borne by the public, who are subjected to higher insurance premiums or who cannot afford to repair their own homes to bring them up to safe standards.
- G. Under current law, owners of homes that are not up to codes cannot recover the costs of bringing their homes up to standard from builders unless they have suffered actual physical damage. Builders are thus allowed to escape responsibility for building homes in violation of building codes and standards.

SECTION 3. PURPOSE AND INTENT.

It is the intent of the people of California in enacting this measure to:

- A. Encourage builders to comply with minimal codes, regulations, and ordinances in the construction of residential housing projects.
- B. Ensure that builders who repeatedly fail to conform to minimum code requirements and whose defective construction causes substantial property losses are not permitted to

conduct construction, sales or marketing activities for a substantial period of time in California.

C. Ensure that homeowners whose homes are not built in compliance with minimal codes, regulations, and ordinances can recover the cost of repairing construction defects directly from the responsible builder.

SECTION 4. Article 7.1 is hereby added to Chapter 9 of Division 3 of the Business and Professions Code, commencing with Section 7124.7, to read:

ARTICLE 7.1. WILLFUL NONCOMPLIANCE WITH BUILDING REQUIREMENTS; SUSPENSION OF CONTRACTOR'S LICENSE

Section 7124.7. Definitions. As used in this Article:

(a) "Builder" means any entity or individual, including but not limited to a builder, developer, general contractor, or contractor involved in the construction, marketing or sale of residential housing, and any of its affiliates, principals, parents, subsidiaries, partners, members, successors, and assigns. "Builder" does not include any entity or individual whose involvement with the construction, marketing or sale of residential housing is limited to its capacity as general contractor or contractor and who is not a principal, parent, subsidiary, partner, member, successor, assign, or otherwise similarly affiliated with the builder. For purposes of this article, these nonaffiliated general contractors and nonaffiliated contractors shall be treated the same as subcontractors, material suppliers, individual product manufacturers, and design professionals.

(b) "Homeowner" means any individual owner of a single-family home, individual unit owner of an attached dwelling and, in the case of a common interest development, any association as defined in subdivision (a) of Civil Code Section 1351.

Section 7124.8. Noncompliance With Building Requirements; Suspension Of Contractor's License

(a) Any builder who, two or more times within any three-year period, is found either in a court proceeding, other adjudicative proceeding, administrative procedure, or alternative forum to have intentionally, willfully, or recklessly failed to comply with any applicable building code, regulation or ordinance and whose defective construction results in a judgment or award in excess of one hundred thousand dollars (\$100,000) for any homeowner shall have its contractor's license suspended for a five-year period and shall be prohibited from engaging in any construction, marketing, or sales of residential housing for such period.

(b) The suspension in subdivision (a) shall apply to all contractor's licenses held by the builder and any of its affiliates, principals, parents, subsidiaries, partners, members, successors, and assigns.

SECTION 5. Title 9 is hereby added to Part 2 of Division 2 of the Civil Code, commencing with Section 945.10, to read:

TITLE 9. ACTIONABLE CONSTRUCTION DEFECTS

Section 945.10. Definitions. As used in this Title:

(a) "Action" means any civil lawsuit, other adjudicative proceeding, or alternative dispute resolution proceeding seeking monetary recovery against a developer, builder, design professional, general contractor, material supplier, or subcontractor based upon a claim for an alleged construction defect or defects in real property, improvements to real property, or the land upon which such improvements or property are situated.

(b) "Homeowner" means any individual owner of a single-family home, individual unit owner of an attached dwelling and, in the case of a common interest development, any association as defined in subdivision (a) of Civil Code Section 1351.

Section 945.11. Action for Construction Defects

Except for actions governed by the provisions of Title 7 of this Part of the Civil Code, in any action, a homeowner shall be entitled to recover damages specified in Civil Code Section 944 for a construction defect or defects, including any deviation from any applicable building code, regulation or ordinance in effect at the time of construction, regardless of whether such deviation has resulted in physical damage.

SECTION 6. AMENDMENT.

This Act may be amended to carry out its purpose and intent by statutes approved by a two-thirds vote of each house of the Legislature and signed by the Governor.

SECTION 7. CONFLICTING INITIATIVES.

In the event that this measure and another initiative measure or measures that involve construction defect actions shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.