

# California's Right to Repair, SB-800 Is It Working?

*A study conducted with homebuilding professionals in California measuring the extent of implementation and participation in the SB800 legislation.*

Funded through a grant from  
The California Homebuilding Foundation

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## Background

Jenkinson Associates conducted a research project for the California Homebuilding Foundation (CHF) on issues surrounding SB-800, the "Right to Repair Law." The project involved two surveys: an online survey of builders and trade contractors (treated as two separate populations) and executive interviews conducted with builders who had direct experience with SB-800.

The research design and final questionnaires were the result of collaboration between Patricia Jenkinson, CHF, and the California Building Industry Association (CBIA) staff.

## Research Methods

CHF provided names and email addresses for builders and trade contractors. JA contracted with Meta Research to manage the email "blasts" and online survey administration for the online portion of this project. The online survey was conducted between the dates of April 30 and May 16, 2007. The table below identifies the number of survey requests emailed and the number of completed surveys, as well as the resulting response rate. After adjusting for a finite population, sampling error ranged from less than +/- 9.92% for the builders survey and less than +/- 13.35% for the trade contractors survey.

	# in original email blasts	Completed surveys	Response Rate
Builders	659	85	13%
Trade Contractors	694	50	7%
Total	1353	135	10%

At the conclusion of the online survey, respondents were asked if they would grant a telephone interview for a follow-up survey on SB-800. Patricia Jenkinson made multiple attempts to complete executive interviews with 11 potential respondents who had experience with SB-800 and who granted permission for an executive interview. (The original list was composed of 19 names, 6 of which were incorrectly classified and 2 who had claimed experience but, upon follow-up interview, admitted they had misinterpreted the question and, in fact, did not have SB-800 experience.) Executive interviews averaged 12 minutes and were conducted between the dates of June 25-July 3, 2007. Interviews were conducted with 10 of the 11 who had experience, plus an additional 5 builders, for a total of 16 completed executive interviews.

## **Caveats**

This document discusses the *highlights* of the study. It is not meant to be a detailed analysis of every question asked in the survey. Detailed statistics for all survey questions can be found in the frequency questionnaire, also provided to the Client. The findings discussed in this summary are the professional opinions of JA, and are not meant to be taken as endorsement nor criticism of the client, its staff, its policies, or procedures.

While a 10% response rate is typical for an online survey, it must be acknowledged that, with a 10% response rate, data likely over-represent awareness/familiarity levels, as those not aware of SB-800 may have declined to respond to a survey on a topic of which they have no knowledge.

Many of the survey questions are conditional or “branch” questions, where those not qualified to answer a question “skip” it (e.g., those who haven’t heard of SB-800 were not asked how familiar they were with the law). Where possible, data discussed in this document delineate between absolute percentages (of those responding to the survey) and adjusted percentages (of those responding to the question). In the absence of such identification, adjusted percentages are used.

Discussions about experience with SB-800 are based upon the Executive Interview portion of the project. This project was more qualitative and involved few respondents. Thus, percentages are not reported as they would be misleading.

## Executive Summary

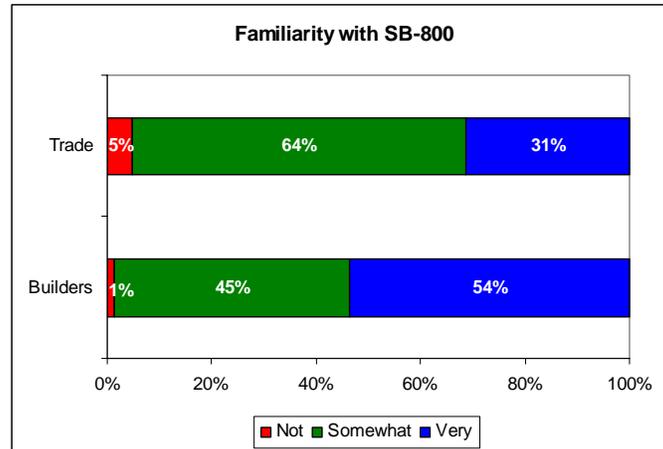
### Study Highlights

While the research covered a plethora of issues relating to SB-800, this document focuses on four specific areas:

- The awareness level and experience of builders and trade contractors with SB-800.
- How builders are addressing issues related to SB-800.
- Assessment of SB-800 effectiveness (and suggestions for improvement)
- Potential opportunities for future education.

### Awareness/Familiarity

- *Awareness of SB-800 is fairly high, although the research method used likely overestimates awareness levels.*
  - In the online survey, 98% of builders and 91% of trade contractors indicated they had heard of SB-800, the “Right to Repair Law.”
  - However, it is important to note that the survey achieved a 10% response rate. Reasons for not responding to an online survey vary, but one could be that they were unaware of SB-800 and, thus, declined to participate in a survey on a topic of which they were unaware.
- *Of those aware of SB-800, builders were more knowledgeable than trade contractors, with 54% of builders claiming they were “very” familiar with SB-800, as compared to 31% of trade contractors.*
  - Converting the percentages to means (averages), builders’ familiarity earned a mean of 2.52 while trade contractors’ familiarity with the law earned a lower mean of 2.27 (out of 3.00).
  - Classifying those who lacked awareness of SB-800 in a previous question as “not at all” familiar, only 2% of builders and 13% of trade contractors lacked some familiarity with the law.



### **Incorporating SB-800 into Business Practices**

- *The vast majority of builders (84%) indicated that they had taken affirmative steps to integrate SB-800 into their purchase and sales agreements.*
  - Builders reported discussing SB-800 during their sales processes (49%) and during discussions with buyers in their sales offices (57%).
  - All builders who are aware of SB-800 said they provided a Homeowners Maintenance Manual to the home owner and most (79%) said they also provided the manual to HOAs on projects involving a common interest development).
  - Most are providing an additional written warranty (84%) and are tying their separate warranty together with SB-800 standards (81%).
  - Most builders (66%) say they mention SB-800 in their agreement with trade contractors, and many (46%) require the trade contractor to provide a contact address for the duration of the SB-800 period.
- *In the executive interviews, one builder indicated that they had spent \$6,000 revamping their contract to include (among other things) SB-800 language.*
  - This builder also suggested that CBIA develop a more “boilerplate template” form contract and other documents that builders could adopt and revise.

### **Experience with SB-800**

- *Few builders have had claims where they have invoked SB-800 (25%), and few trade contractors reported having been presented with SB-800 claims (14%).*
- *SB-800 claims tend to be presented within 2 years after close of escrow, with most builders believing this to be an appropriate amount of time.*
  - Most builders have had unresolved warranty issues with the homeowner before being presented with an SB-800 claim. When it gets to the point where SB-800 is utilized, the homeowner tends to be represented by counsel.
- *When faced with an SB-800 claim, builders tended to involve the original trade contractor, who tends to respond positively.*
  - When claims are resolved, they are resolved fairly quickly—usually less than 1 year after the initial notification.

- *When an issue reaches SB-800 status, it tends to be expensive in personnel and in transactional costs.*
  - In the executive interviews, builders indicated that, on average, 7 people (employees and consultants) are involved in processing the claim.
  - Transactional costs (defined in the executive interview as “costs for outside sources to assist you in handling the claim—generally consultants, attorneys, or experts; such costs do not include your own employees’ time”) varied, with one company estimating \$250,000 spent processing a claim (multiple homeowners/units involved).
  - Most builders in the executive interviews reported using attorneys to help them handle SB-800 claims, even if the claim doesn’t end up in litigation.

### **Assessment of SB-800 Effectiveness/Value**

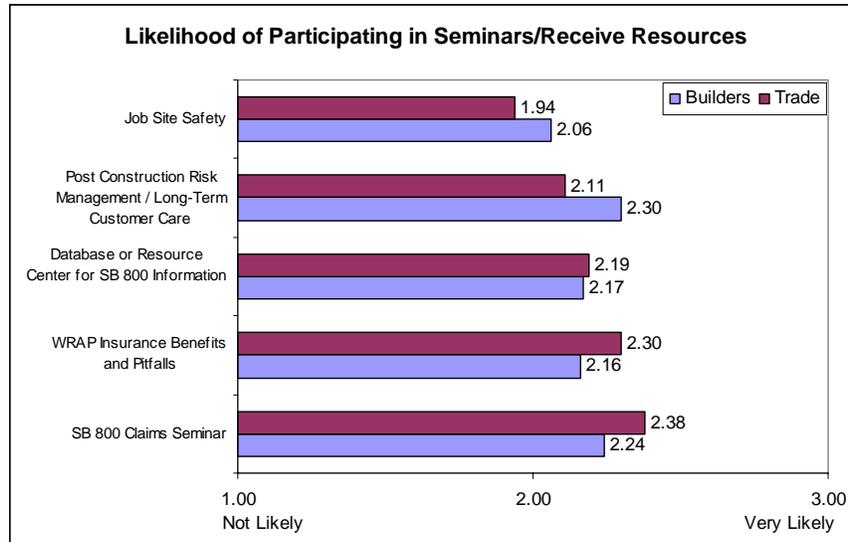
- *Most builders who have experience with SB-800 felt that the process worked well and compared favorably to the litigation process.*
  - In the executive interviews, two builders reported negative experiences with SB-800, primarily because the cases had ended up in litigation even after trying to go through the SB-800 process.
- *Builders appreciated having the right to inspect and repair. Some felt that having a structure and guidelines in writing was a positive aspect of the SB-800 process.*
  - Two builders in the executive interviews complemented the timeline inherent in the law.
- *Most of those having gone through the process had concerns or suggestions on how to improve it. From the interviewer’s perspective, the intensity of the complaints seemed to increase based upon the number of units involved and the aggressiveness of the homeowner’s council.*
  - Many were concerned about what they considered to be vague wording (e.g., “significant,” and “substantial”).
  - One builder pointed to the impracticality of inspecting multiple homes within a 14-day time period—particularly when the location of alleged defects is vague (worse when it involves multiple homes). Two other builders mentioned concerns on the timeline.
  - Another concern mentioned is that the restrictions and timelines are imposed on the builder, with new penalties levied against the homeowner.
  - One builder waives the process because they found it time consuming and expensive, particularly because you have to have alternative contractors come over to get a qualified bid. Instead, they either handle it as a customer service or warranty issue or go straight to court.

## **Recommendations for Improving SB-800**

- *About half of builders responding to the online survey felt SB-800 should be modified, with the greatest percentage desiring revised definitions of defects.*
  - This was supported in the executive interviews, with the vague wording mentioned as an aspect of the SB-800 process that could be improved.
  - Builders report resorting to the McClellan manual for more specific standards; one requested that that manual continue to evolve.
- *Other suggestions from the executive interviews ranged from making allowances for multiple housing units involved in a claim (affecting timeline), requiring the homeowner to take a financial share of the mediation costs (homeowners would only invoke SB-800 if they really think they have a legitimate issue), and assigning a “Special Master” or some sort of referee who can help everyone navigate the process.*

## **Opportunities for Future Education**

- *There is definitely a need for education regarding SB-800, particularly amongst trade contractors. The low response rate could indicate a lack of knowledge (translating into a lack of desire to complete a survey on the topic).*
  - 13% of those responding to the online survey said they had not yet integrated SB-800 into their sales and purchase agreements and 26% said they do not mention SB-800 in their agreements with trade contractors. This may be due to lack of education or lack of understanding how to apply and incorporate SB-800 into their contracts and processes.
  - In the executive interviews, three builders recommended that other builders completely understand SB-800, with another recommending that claim processes be clearly communicated to the homebuyer (requiring an educated builder).
- *Builders and trade contractors indicated interest in attending a seminar on SB-800 claims, probably because it was a fairly new area with lots of unknowns.*
  - In the executive interviews, some builders requested a forum whereby others could learn from those who had gone through SB-800 claims.
  - The desire to share information with others is supported by the 57% of those with SB-800 experience responding to the online survey indicating they would be willing to participate in a CBIA SB-800 registry where they would report their experiences in return for some free SB-800 resources.
  - Additionally, in the executive interviews, virtually all builders said they would be willing to share information with CBIA should their SB-800 cases end up in litigation.



- *Builders were also very interested in seminars on Post Construction and Long-term Customer care.*
  - In the executive interviews, builders stressed the importance of customer service as a method of preventing claims reaching SB-800 status.