

ENROLLED SENATE  
BILL NO. 1749

By: Lamb of the Senate

and

Case of the House

An Act relating to contracts; creating the Notice of Opportunity to Repair Act; providing short title; defining terms; allowing certain provisions in specified contracts; prohibiting certain actions; allowing stay of certain proceedings under specified circumstances; authorizing certain party to seek certain remedies; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 765.5 of Title 15, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Notice of Opportunity to Repair Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 765.6 of Title 15, unless there is created a duplication in numbering, reads as follows:

A. For the purposes of this section:

1. "Construction defect" means a matter arising directly or indirectly out of the design, construction or repair of a new residence, or an alteration of, repair of, or addition to an existing residence, upon which a homeowner has a complaint against a contractor;

2. "Contractor" means a person or entity providing labor, services or materials in the construction of a new residence or alteration of, repair of, or addition to an existing residence; and

3. "Residence" means any structure designed and used only for residential purposes, together with all attached and unattached structures, constructed by the contractor, regardless of whether the real property upon which the residence is located was purchased from the contractor. Such term also includes a residence upon which alterations or repairs were performed by the contractor at the direction of the homeowner.

B. A contract for the construction of a new residence or for an alteration of, repair of, or addition to an existing residence may include provisions which:

1. Require a homeowner, prior to filing a lawsuit for construction defects, to present to the contractor a written notice of construction defects; and

2. Allow the contractor to inspect any construction defects and present to the homeowner a written response which shall include the contractor's offer to repair defects or compensate homeowner for such defects within thirty (30) days after receipt of the notice of defects.

If such provisions are included in a contract, the homeowner shall not file a lawsuit against the contractor until the conditions precedent have been fulfilled. In the event the homeowner files a lawsuit against the contractor without fulfilling the conditions precedent, the contractor shall be entitled to a stay of proceedings until such conditions have been fulfilled. If the conditions precedent have been fulfilled, the homeowner may seek remedies against the contractor as provided by law.

SECTION 3. This act shall become effective November 1, 2006.

Passed the Senate the 1st day of March, 2006.

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Presiding Officer of the Senate

Passed the House of Representatives the 19th day of April, 2006.

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Presiding Officer of the House  
of Representatives

