

CS for SB 1749

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

THE STATE SENATE
Thursday, February 23, 2006

Committee Substitute for
Senate Bill No. 1749

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1749 - By: LAMB of the Senate and CASE of the House.

[contracts - Notice of Opportunity to Repair Act -
codification - 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;

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

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

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

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

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

22 If such provisions are included in a contract, the homeowner shall
23 not file a lawsuit against the contractor until the conditions

1 precedent have been fulfilled. In the event the homeowner files a
2 lawsuit against the contractor without fulfilling the conditions
3 precedent, the contractor shall be entitled to a stay of proceedings
4 until such conditions have been fulfilled. If the conditions
5 precedent have been fulfilled, the homeowner may seek remedies
6 against the contractor as provided by law.

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

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-21-06 - DO
9 PASS, As Amended and Coauthored.