

1 **SENATE FLOOR VERSION**

2 April 2, 2012

3 ENGROSSED HOUSE
4 BILL NO. 2414

By: Grau of the House

and

Crain of the Senate

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8 An Act relating to contracts; amending 15 O.S. 2011,
9 Section 765.6, which relates to the Notice of
10 Opportunity to Repair Act; modifying definition; and
11 providing an effective date.

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

13 SECTION 1. AMENDATORY 15 O.S. 2011, Section 765.6, is
14 amended to read as follows:

15 Section 765.6 A. For the purposes of this section:

16 1. "Construction defect" means a ~~matter~~ deficiency in or a
17 deficiency arising directly or indirectly out of the design,
18 specifications, surveying, planning, supervision or observation of
19 construction or repair of a new residence, or an alteration of,
20 repair of, or addition to an existing residence, upon which a
21 homeowner has a complaint against a contractor construction of
22 residential improvements that results from any of the following:

23 a. defective material, products or components used in the
24 construction of residential improvements,

- 1 b. violation of the applicable codes in effect at the
2 time of construction of residential improvements,
3 c. failure of the design of residential improvements to
4 meet the applicable professional standards of care at
5 the time of governmental approval of the design of
6 residential improvements, or
7 d. failure to construct residential improvements in
8 accordance with accepted trade standards for good and
9 workmanlike construction at the time of construction;

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

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

20 B. A contract for the construction of a new residence or for an
21 alteration of, repair of, or addition to an existing residence may
22 include provisions which:
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1 1. Require a homeowner, prior to filing a lawsuit for
2 construction defects, to present to the contractor a written notice
3 of construction defects; and

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

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

17 SECTION 2. This act shall become effective November 1, 2012.
18 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & COMMERCE, dated 3-29-12
19 - DO PASS.

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