

1 ENGROSSED HOUSE  
2 BILL NO. 1597

By: Martinez and Dollens of the  
House

3 and

4 Newhouse of the Senate

5  
6 An Act relating to contracts; amending 15 O.S. 2021,  
7 Section 765.6, which relates to Notice of Opportunity  
8 to Repair Act; subjecting requirements to certain  
9 contractual agreements; and providing an effective  
10 date.

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

12 SECTION 1. AMENDATORY 15 O.S. 2021, Section 765.6, is  
13 amended to read as follows:

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

15 1. "Construction defect" means a deficiency in or a deficiency  
16 arising out of the design, specifications, surveying, planning,  
17 supervision or observation of construction or construction of  
18 residential improvements that results from any of the following:

- 19 a. defective material, products or components used in the  
20 construction of residential improvements,  
21 b. violation of the applicable codes in effect at the  
22 time of construction of residential improvements,  
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1           c.    failure of the design of residential improvements to  
2                meet the applicable professional standards of care at  
3                the time of governmental approval of the design of  
4                residential improvements, or

5           d.    failure to construct residential improvements in  
6                accordance with accepted trade standards for good and  
7                workmanlike construction at the time of construction;

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

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

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

21           1.    Require a homeowner, prior to filing a lawsuit for  
22                construction defects, to present to the contractor a written notice  
23                of construction defects; and  
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1        2. Allow the contractor to inspect any construction defects and  
2 present to the homeowner a written response which shall include the  
3 contractor's offer to repair defects or compensate homeowner for  
4 such defects within thirty (30) days after receipt of the notice of  
5 defects.

6        ~~If~~ Regardless of whether such provisions are included in a  
7 contract, the homeowner shall not file a lawsuit against the  
8 contractor until the conditions precedent as set forth in paragraphs  
9 1 and 2 of this subsection have been fulfilled. In the event the  
10 homeowner files a lawsuit against the contractor without fulfilling  
11 the conditions precedent, the contractor shall be entitled to a stay  
12 of proceedings until such conditions have been fulfilled. If the  
13 conditions precedent have been fulfilled, the homeowner may seek  
14 remedies against the contractor as provided by law. The provisions  
15 of this section shall not be subject to, and nothing herein is  
16 intended to alter, contradict or otherwise diminish the application  
17 of, the terms of a separate express contractual warranty agreed upon  
18 by a contractor or homeowner. This section does not create a cause  
19 of action or derivative liability or extend a limitations period.

20        SECTION 2. This act shall become effective November 1, 2023.  
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1 Passed the House of Representatives the 27th day of February,  
2 2023.

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4 Presiding Officer of the House  
5 of Representatives

6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2023.

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8 Presiding Officer of the Senate