

1 ENGROSSED SENATE
2 BILL NO. 418

By: Daniels of the Senate

3 and

4 Martinez of the House

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7 An Act relating to the Notice of Opportunity to
8 Repair Act; amending 15 O.S. 2011, Section 765.6, as
9 amended by Section 1, Chapter 111, O.S.L. 2012 (15
10 O.S. Supp. 2020, Section 765.6), which relates to
11 notice and offer to repair provisions in construction
12 contracts; modifying consequence of inclusion of
13 certain provisions in construction contracts; and
14 providing an effective date.

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

16 SECTION 1. AMENDATORY 15 O.S. 2011, Section 765.6, as
17 amended by Section 1, Chapter 111, O.S.L. 2012 (15 O.S. Supp. 2020,
18 Section 765.6), is amended to read as follows:

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

20 1. "Construction defect" means a deficiency in or a deficiency
21 arising out of the design, specifications, surveying, planning,
22 supervision or observation of construction or construction of
23 residential improvements that results from any of the following:

- 24 a. defective material, products or components used in the
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~~ Regardless of whether such provisions are included in a
10 contract, the homeowner shall not file a lawsuit against the
11 contractor until the conditions precedent as set forth in paragraphs
12 1 and 2 of this subsection have been fulfilled. In the event the
13 homeowner files a lawsuit against the contractor without fulfilling
14 the conditions precedent, the contractor shall be entitled to a stay
15 of proceedings until such conditions have been fulfilled. If the
16 conditions precedent have been fulfilled, the homeowner may seek
17 remedies against the contractor as provided by law.

18 SECTION 2. This act shall become effective November 1, 2021.

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