

1 **SENATE FLOOR VERSION**

2 February 9, 2021

3 SENATE BILL NO. 418

By: Daniels

4  
5  
6  
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:  
23  
24

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.

19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
20 February 9, 2021 - DO PASS

21  
22  
23  
24