

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 314

By: Hall

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6 AS INTRODUCED

7 An Act relating to construction contracts; amending
8 15 O.S. 2011, Section 765.6, as amended by Section 1,
9 Chapter 111, O.S.L. 2012 (15 O.S. Supp. 2020, Section
10 765.6), which relates to construction defects;
11 modifying definition; requiring certain contract
12 provision; clarifying failure to have certain
13 contract provision; making failure to comply with
14 certain provision a breach of contract; stating time
15 to remedy defects; providing an effective date; and
16 declaring an emergency.

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

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

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

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

- 26 a. defective material, products or components used in the
27 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 or
11 e. failure to construct or install any feature of new
12 construction according to the terms of the contract,
13 design or reasonable expectations of the purchaser;

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

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

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

4 1. Require a homeowner, prior to filing a lawsuit for
5 construction defects, to present to the contractor a written notice
6 of construction defects; and

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

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

20 C. A contract for new construction of a residence shall have a
21 provision that upon the written request of the purchaser, the
22 contractor shall meet in person with the purchaser within a
23 reasonable time to discuss observable construction defects or change
24 orders for the new construction. Failure of a contract to have an

1 in-person meeting provision shall require the contractor to meet
2 with the purchaser, upon written notice, not later than seventy-two
3 (72) hours after receiving notice. Failure of a contractor to
4 comply with the provisions of this subsection shall be deemed an
5 intentional breach of contract by the contractor. Observable
6 construction defects shall be remedied within thirty (30) days after
7 meeting with the contractor.

8 SECTION 2. This act shall become effective July 1, 2021.

9 SECTION 3. It being immediately necessary for the preservation
10 of the public peace, health or safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

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