

SENATE BILL REPORT

SB 5923

As Reported By Senate Committee On:
Commerce, Trade, Housing & Financial Institutions, February 3, 2000

Title: An act relating to home warranties.

Brief Description: Creating home warranties.

Sponsors: Senators Kohl-Welles and Snyder.

Brief History:

Committee Activity: Commerce, Trade, Housing & Financial Institutions: 2/23/99;
2/28/00, 2/3/00 [DPS, DNP].

SENATE COMMITTEE ON COMMERCE, TRADE, HOUSING & FINANCIAL INSTITUTIONS

Majority Report: That Substitute Senate Bill No. 5923 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Shin, Vice Chair; Deccio, Gardner, Rasmussen and Winsley.

Minority Report: Do not pass.

Signed by Senators Benton, Hale, Heavey, T. Sheldon and West.

Staff: Susan Jones (786-7784)

Background: Builders are generally not required to warrant new homes. Washington has limited remedies for defects in new home construction unless the purchase contract is very specific or certain warranties under the Condominium Act apply. Washington courts recognize an implied warranty of habitability for new homes. This warranty generally applies only to the first owner and only warrants that the foundations supporting the home are firm and secure and that the house is safe for the buyer's intended purpose of living in it. Concerns have been expressed that many buyers are unaware that the remedies are limited. Some buyers have suffered significant financial losses resulting from defects in the construction of their new homes. Many condominium owners have suffered financial losses related to water penetration problems that are discovered after their warranties expired.

Summary of Substitute Bill: Any contract for construction or sale of a new home includes a warranty from the residential builder that warrants at a minimum that (1) for one year, the new home is free from any defects in materials and workmanship; (2) for three years, the new home is free from any defects in the electrical, plumbing, heating, cooling, and ventilating systems, with certain exceptions for appliances and items of equipment with other warranties; (3) for five years, the new home is free from any defects resulting in water penetration; and (4) for ten years, the new home is free from any structural defects. There are certain exceptions.

A new home means a newly constructed private dwelling unit and the fixtures and structure that are part of the unit, including condominiums. There are exceptions, including timeshares, manufactured and mobile homes, outbuildings, driveways and certain other improvements.

Recovery from a breach of the warranty includes the cost to repair the defect as well as the cost to repair any damage caused by the defect. The residential builder has a cause of action against any subcontractor if the subcontractor caused the defect.

Any cause of action on the new home warranty must be commenced within 180 days of the date the defect was discovered or should have been discovered. The 180 days can be tolled if the owner has notified the residential builder of the problem. The action must be commenced no later than the 1 to 10-year time periods and the six-year statute of limitations on residential construction does not apply to this warranty. This warranty continues to protect subsequent purchasers of the home. The warranty cannot be disclaimed or waived, except real property with more than four dwelling units and except for specific defects.

Substitute Bill Compared to Original Bill: The original bill provided that every contract for the construction or sale of a new home includes a warranty that the new home has been constructed in accordance with the building codes. The original bill included provisions for recovery of damages and time limitations for filing a lawsuit. The original bill also required that notification be given to a new home purchaser of a builder's participation in an optional new home warranty security plan. The plan would have to meet a statutory warranty for certain items. If the builder did not participate in a plan, then the purchaser would receive certain notices from the builder including notice that the warranties may be limited. The substitute bill provides a home warranty on all new homes with provisions similar to those in the optional plan under the original bill.

Appropriation: None.

Fiscal Note: Requested on January 24, 2000.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Many condominium owners and single family homeowners have had substantial problems with their new homes. Labor and Industries has seen a dramatic increase over the years in claims against contractors. Current home warranties are not sufficient to cover many of these problems. The statute of limitation for condo warranties is not long enough for discovery of leaky condo problems. Vancouver, B.C. recently enacted a very strong home warranties statute. An interim home warranties workgroup, which included stakeholders and legislators, met over the summer and fall to study these issues. The group was not able to agree upon a bill. Although the substitute bill does not sufficiently protect new homeowners, it is a good step toward adding more consumer protection.

Testimony Against: This is a long-term problem and the building industry will work on these issues. This problem needs to be fixed in a number of areas. The three-year warranty in the substitute bill may be a problem when a manufacturer provides a shorter warranty.

Testified: PRO: Senator Kohl-Welles; Patrick Woods, Labor and Industries; CON: Bob Camp, BIAW.