

SENATE BILL REPORT

SB 5961

As of February 18, 2015

Title: An act relating to modifying certain construction defect action procedures.

Brief Description: Modifying certain construction defect action procedures.

Sponsors: Senators Benton and Hobbs.

Brief History:

Committee Activity: Commerce & Labor: 2/18/15.

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Richard Rodger (786-7461)

Background: Several requirements are placed on a homeowner who wishes to bring a lawsuit against a builder or others for property damage due to alleged defects in the construction of a residence. These requirements apply to the new construction of a residence and to any remodel that costs more than half of the assessed value of the residence.

Before a lawsuit can be filed alleging a defect in the construction or substantial remodel of a residence, the homeowner must serve notice on the construction professional alleged to be responsible for the defect. The claimant's notice must be given at least 45 days before a suit is filed and must describe the claim in reasonable detail.

Within 21 days of receiving the notice, the construction professional must respond to the homeowner. In the response, the construction professional must do one of the following: (1) offer to inspect the alleged defect and then, based on the inspection, either remedy the defect, pay for it, or dispute the homeowner's claim; (2) offer to settle the claim by paying for the defect, including possibly buying the residence back from the homeowner; or (3) dispute the claim.

If the construction professional fails to respond, or disputes the claim, or the homeowner rejects an offer of inspection or settlement, then the homeowner may file a lawsuit.

If a homeowner does not comply with the statutory requirements prior to filing a lawsuit, the lawsuit is subject to dismissal without prejudice and may not be recommenced until the requirements have been complied with.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: A homeowner must allow a construction professional to inspect the construction defect before rejecting a settlement proposal or before filing a lawsuit.

If a homeowner does not comply with the statutory requirements prior to filing a lawsuit, the lawsuit is dismissed without prejudice and will not be recommenced until the requirements have been complied with.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This bill helps consumers and homeowners get an inspection done when they have construction defects. They can still file a lawsuit if they don't agree with the inspection results.

CON: The current statute is working as designed and provides everyone with clear, understandable procedures. The existing process allows for a cooling-off period that increases the chances of settlement. No construction professional should have a given right to inspect another person's home. Many times homeowners reject inspection requests as the inspection may be scheduled over a period of six months.

Persons Testifying: PRO: Jan Himebaugh, Building Industry Assn. of WA.

CON: Jeremy Stilwell, Community Assns. Institute.