

By: Solomons

H.B. No. 3147

A BILL TO BE ENTITLED

AN ACT

relating to claims against a contractor for construction of common elements under a condominium or cooperative system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 27.001, Property Code, is amended by amending Subdivisions (5) and (7) and adding Subdivision (10) to read as follows:

(5) "Contractor":

(A) means:

(i) a builder, as defined by Section 401.003, contracting with an owner for the construction or repair of a new residence, for the repair or alteration of or an addition to an existing residence, or for the construction, sale, alteration, addition, or repair of an appurtenance to a new or existing residence;

(ii) ~~and~~ any person contracting with a purchaser ~~[an owner]~~ for the ~~[construction or]~~ sale of a new residence constructed by or on behalf of that person; or

(iii) a person contracting with an owner or the developer of a condominium for the construction of a new residence, for ~~[of]~~ an alteration of or an addition to an existing residence, for repair of a new or existing residence, or for the construction, sale, alteration, addition, or repair of an appurtenance to a new or existing residence; and

1 (B) [~~. The term~~] includes:

2 (i) [~~(A)~~] an owner, officer, director,
3 shareholder, partner, or employee of the contractor; and

4 (ii) [~~(B)~~] a risk retention group
5 registered under Article 21.54, Insurance Code, that insures all or
6 any part of a contractor's liability for the cost to repair a
7 residential construction defect.

8 (7) "Residence" means the real property and
9 improvements for a single-family house, duplex, triplex, or
10 quadruplex or a unit and the common elements in a multiunit
11 residential structure in which title to the individual units is
12 transferred to the owners under a condominium or cooperative
13 system.

14 (10) "Developer of a condominium" means a declarant,
15 as defined by Section 82.003, of a condominium consisting of one or
16 more residences.

17 SECTION 2. Section 27.007(a), Property Code, is amended to
18 read as follows:

19 (a) A written contract subject to this chapter, other than a
20 contract between a developer of a condominium and a contractor for
21 the construction or repair of a residence or appurtenance to a
22 residence in a condominium, must contain [~~next to the signature~~
23 ~~lines~~] in the contract a notice printed or typed in 10-point
24 boldface type or the computer equivalent that reads substantially
25 similar to the following:

26 "This contract is subject to Chapter 27 of the Texas Property
27 Code. The provisions of that chapter may affect your right to

1 recover damages arising from [~~the performance of this contract~~] a
2 construction defect. If you have a complaint concerning a
3 construction defect [~~arising from the performance of this contract~~]
4 and that defect has not been corrected as may be required by law or
5 by contract [~~through normal warranty service~~], you must provide the
6 notice required by Chapter 27 of the Texas Property Code to the
7 contractor by certified mail, return receipt requested, not later
8 than the 60th day before the date you file suit to recover damages
9 in a court of law or initiate arbitration. The notice must refer to
10 Chapter 27 of the Texas Property Code and must describe the
11 construction defect. If requested by the contractor, you must
12 provide the contractor an opportunity to inspect and cure the
13 defect as provided by Section 27.004 of the Texas Property Code."

14 SECTION 3. The changes in law made by this Act apply only to
15 a contract that was entered into on or after the effective date of
16 this Act. A contract that was entered into before the effective
17 date of this Act is governed by the law in effect when the contract
18 was entered into, and the former law is continued in effect for that
19 purpose.

20 SECTION 4. This Act takes effect September 1, 2007.