

1-1 By: Solomons (Senate Sponsor - Carona) H.B. No. 3147
1-2 (In the Senate - Received from the House May 11, 2007;
1-3 May 15, 2007, read first time and referred to Committee on Business
1-4 and Commerce; May 18, 2007, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 18, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to claims against a contractor for construction of common
1-9 elements under a condominium or cooperative system.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 27.001, Property Code, is amended by
1-12 amending Subdivisions (5) and (7) and adding Subdivision (10) to
1-13 read as follows:

1-14 (5) "Contractor":

1-15 (A) means:

1-16 (i) a builder, as defined by Section
1-17 401.003, contracting with an owner for the construction or repair
1-18 of a new residence, for the repair or alteration of or an addition
1-19 to an existing residence, or for the construction, sale,
1-20 alteration, addition, or repair of an appurtenance to a new or
1-21 existing residence;

1-22 (ii) ~~and~~ any person contracting with a
1-23 purchaser ~~[an owner]~~ for the ~~[construction or]~~ sale of a new
1-24 residence constructed by or on behalf of that person; or

1-25 (iii) a person contracting with an owner or
1-26 the developer of a condominium for the construction of a new
1-27 residence, for ~~[of]~~ an alteration of or an addition to an existing
1-28 residence, for repair of a new or existing residence, or for the
1-29 construction, sale, alteration, addition, or repair of an
1-30 appurtenance to a new or existing residence; and

1-31 (B) ~~[The term]~~ includes:

1-32 (i) ~~[(A)]~~ an owner, officer, director,
1-33 shareholder, partner, or employee of the contractor; and

1-34 (ii) ~~[(B)]~~ a risk retention group
1-35 registered under Article 21.54, Insurance Code, that insures all or
1-36 any part of a contractor's liability for the cost to repair a
1-37 residential construction defect.

1-38 (7) "Residence" means the real property and
1-39 improvements for a single-family house, duplex, triplex, or
1-40 quadruplex or a unit and the common elements in a multiunit
1-41 residential structure in which title to the individual units is
1-42 transferred to the owners under a condominium or cooperative
1-43 system.

1-44 (10) "Developer of a condominium" means a declarant,
1-45 as defined by Section 82.003, of a condominium consisting of one or
1-46 more residences.

1-47 SECTION 2. Section 27.007(a), Property Code, is amended to
1-48 read as follows:

1-49 (a) A written contract subject to this chapter, other than a
1-50 contract between a developer of a condominium and a contractor for
1-51 the construction or repair of a residence or appurtenance to a
1-52 residence in a condominium, must contain ~~[next to the signature~~
1-53 ~~lines]~~ in the contract a notice printed or typed in 10-point
1-54 boldface type or the computer equivalent that reads substantially
1-55 similar to the following:

1-56 "This contract is subject to Chapter 27 of the Texas Property
1-57 Code. The provisions of that chapter may affect your right to
1-58 recover damages arising from ~~[the performance of this contract]~~ a
1-59 construction defect. If you have a complaint concerning a
1-60 construction defect ~~[arising from the performance of this contract]~~
1-61 and that defect has not been corrected as may be required by law or
1-62 by contract ~~[through normal warranty service]~~, you must provide the
1-63 notice required by Chapter 27 of the Texas Property Code to the
1-64 contractor by certified mail, return receipt requested, not later

2-1 than the 60th day before the date you file suit to recover damages
2-2 in a court of law or initiate arbitration. The notice must refer to
2-3 Chapter 27 of the Texas Property Code and must describe the
2-4 construction defect. If requested by the contractor, you must
2-5 provide the contractor an opportunity to inspect and cure the
2-6 defect as provided by Section 27.004 of the Texas Property Code."

2-7 SECTION 3. The changes in law made by this Act apply only to
2-8 a contract that was entered into on or after the effective date of
2-9 this Act. A contract that was entered into before the effective
2-10 date of this Act is governed by the law in effect when the contract
2-11 was entered into, and the former law is continued in effect for that
2-12 purpose.

2-13 SECTION 4. This Act takes effect September 1, 2007.

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