

BILL ANALYSIS

Senate Research Center

H.B. 1742
By: Bosse (Harris)
Jurisprudence
5-13-97
Engrossed

DIGEST

In 1989, the Residential Construction Liability Act (RCLA) was passed in reaction to an imbalance created by the Texas Deceptive Trade Practices Act, which allowed homeowners much latitude in suing Texas residential builders and remodelers. RCLA was passed to remedy this imbalance by providing "a fair and appropriate balance with respect to the resolution of construction disputes between a residential contractor and an owner." However, a recent Fort Worth Court of Appeals decision pointed out an unclear section in RCLA which places a cap on the amount of damages homeowners may collect, particularly in litigation involving older homes. H.B. 1742 would allow homeowners of an older home to recover the greater amount of the purchase price or the current fair market price of the home. Additionally, this bill would ensure that second owners receive the same benefits and obligations as the first owner, would clearly state that subcontractors and design professionals are included under RCLA, and would add a mediation clause.

PURPOSE

As proposed, H.B. 1742 establishes provisions regarding residential construction liability.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 27.001(3), Property Code, to redefine "contractor" to mean a person contracting with an owner for the alteration or repair of or addition to an existing residence; a person contracting with an owner for the construction, alteration, addition, or repair of an appurtenance to a new or existing residence; a person providing a warranty covering defects in a residence or a person administering the warranty on behalf of the person providing the warranty; a person insuring all or any part of a contractor's liability for certain costs; or an officer, director, shareholder, or employee of the contractor or a subcontractor or design professional hired by the contractor to perform the construction, alteration, addition, or repair. Deletes provisions regarding repair of a new or existing residence, sale of an appurtenance to a new or existing residence, and certain risk retention groups.

SECTION 2. Amends Section 27.002(a), Property Code, to provide that this chapter applies to any action to recover damages resulting from a construction defect, except a claim for personal injury, survival, or wrongful death or for damage to goods by an owner of a residence, including an owner subsequent to the owner contracting with the contractor.

SECTION 3. Amends Sections 27.004(g) and (i), Property Code, to prohibit the total damages awarded in a suit subject to this chapter, excluding reasonable and necessary attorney's fees, arbitration expenses, and taxable costs, from exceeding the greater of the claimant's purchase price for the residence or the fair market value of the residence without the construction defect.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 1997.

SECTION 6. Emergency clause.