An Act

ENROLLED HOUSE
BILL NO. 2414

By: Grau of the House

and

Crain of the Senate

An Act relating to contracts; amending 15 O.S. 2011, Section 765.6, which relates to the Notice of Opportunity to Repair Act; modifying definition; and providing an effective date.

SUBJECT: Notice of Opportunity to Repair Act

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 15 O.S. 2011, Section 765.6, is amended to read as follows:

Section 765.6 A. For the purposes of this section:

1. "Construction defect" means a ~~matter~~ deficiency in or a deficiency arising ~~directly or indirectly~~ out of the design, specifications, surveying, planning, supervision or observation of construction or ~~repair of a new residence, or an alteration of, repair of, or addition to an existing residence, upon which a homeowner has a complaint against a contractor~~ construction of residential improvements that results from any of the following:

a. defective material, products or components used in the construction of residential improvements,

b. violation of the applicable codes in effect at the time of construction of residential improvements,

c. failure of the design of residential improvements to meet the applicable professional standards of care at

the time of governmental approval of the design of residential improvements, or

d. failure to construct residential improvements in accordance with accepted trade standards for good and workmanlike construction at the time of construction;

2. "Contractor" means a person or entity providing labor, services or materials in the construction of a new residence or alteration of, repair of, or addition to an existing residence; and

3. "Residence" means any structure designed and used only for residential purposes, together with all attached and unattached structures, constructed by the contractor, regardless of whether the real property upon which the residence is located was purchased from the contractor. Such term also includes a residence upon which alterations or repairs were performed by the contractor at the direction of the homeowner.

B. A contract for the construction of a new residence or for an alteration of, repair of, or addition to an existing residence may include provisions which:

1. Require a homeowner, prior to filing a lawsuit for construction defects, to present to the contractor a written notice of construction defects; and

2. Allow the contractor to inspect any construction defects and present to the homeowner a written response which shall include the contractor's offer to repair defects or compensate homeowner for such defects within thirty (30) days after receipt of the notice of defects.

If such provisions are included in a contract, the homeowner shall not file a lawsuit against the contractor until the conditions precedent have been fulfilled. In the event the homeowner files a lawsuit against the contractor without fulfilling the conditions precedent, the contractor shall be entitled to a stay of proceedings until such conditions have been fulfilled. If the conditions precedent have been fulfilled, the homeowner may seek remedies against the contractor as provided by law.

SECTION 2. This act shall become effective November 1, 2012.

Passed the House of Representatives the 5th day of March, 2012.

Presiding Officer of the House of Representatives

Passed the Senate the 16th day of April, 2012.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 17th

day of April, **20** 12,

at 1:08 **o'clock** PM.

By: Jessica R. Byers

Approved by the Governor of the State of Oklahoma the 23rd **day of**

April, **20** 12, **at** 10:31 **o'clock** AM.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

23rd **day of** April, **20** 12

at 2:25 **o'clock** P. **M.**

By: Michelle R Day