

HomeOwners for Better Building

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Arizona Representatives and Senators
C/O Tracy Schofield
Homeowners Against Defecient Dwellings
Arizona Chapter,

Ms Schofield,

HomeOwners for Better Building understand Arizona is considering a law much like Texas Residential Construction Liability Act (RCLA "Wreck La") which will provide the builders up to 150 days to resolve a construction defect before the homeowner can sue. I would like to take this opportunity to provide comments for you to pass on to your Senators/Representatives. We would be more than happy to discuss the similarities and our experiences of Texas version of HB 2620 with any elected official or their staff.

Length of Time:

Texas's RCLA provides up to 3 months to resolve a defect. The AZ bill allows up to 5 months. Both are longer than what it takes to build an entire house. It is absolutely unreasonable to allow a builder acting in "good faith" 5 months to address a defect. This delay tactic has serious consequences to the homeowner especially with mold contamination and additional consequential damages due to this long delay. If a builder requires 5 months to address a defect, Arizona's licensing department should seriously question this builder's capability to build new homes.

RCLA Requires Competent Legal Assistance:

RCLA in Texas also stands for "Requires Competent Legal Assistance". If RCLA is not followed correctly, it could severely damage your claim in court (if you ever get there). We have learned not to ever suggest a homeowner use RCLA without the use of an attorney, who is well-versed in builder defects. This is a key point since these are hard to find. RCLA has been in Texas for over 10 years, yet many attorneys and builder attorneys still do not know about the law, how to follow it, and the consequences of not following the law. Here in Texas, this is almost a moot point, since the majority of builders have mandatory binding arbitration clauses that deny us access to the courts.

Requires the use of an Attorney

As with the Arizona bill, RCLA does not take into account the letter writing, faxing, emailing, and phone calls the homeowner has made in an attempt to let the builder resolve the defect in "good faith". We hear so many stories here in Texas where the

homeowner has bent over backwards to allow the builder an opportunity to fix their home. As with RCLA, the AZ bill will become a "attorney bill" that the attorney will use to attempt to resolve a construction defect with the attorney of the builder. It completely fails to recognize the pre-attorney dispute resolution by the homebuyer. Instead of rewarding the homebuyer for not resorting to the legal system, this bill, as with RCLA requires the use of the legal system. It also fails to recognize the builder's refusal to repair the home prior to the homeowner seeking help from RCLA. It is sad that the only way some builders respond is to be threatened with the legal system.

We at HomeOwners for Better Building believe in resolving construction defects without resorting to legal methods. Unfortunately, RCLA in Texas has become the builders protection bill allowing the builders to hide behind the legal system. We wish you luck with this bill. If it is passed, you will need it.

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