

HOUSE RESEARCH

Bill Summary

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Authors: Howes and others

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Analyst: Linda A. Holmes
, 651-296-5059

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Overview

This bill makes changes to the statutory warranties on new homes. Among other changes, it provides that a homeowner cannot bring an action for a construction defect that arises during the warranty period unless the consumer also discovers the defect during the warranty period.

Section

- 1 **Approving authority.** Defines this term to mean a political entity such as a city, county, or state agency that has authority over construction.
- 2 **Exclusions.** There is a list of items that are not covered by the statutory new home warranty provisions, and they currently include items installed or directed to be installed by the homeowner. This section would add items installed or directed to be installed by the approving authority (that is, a supervising government entity) to this list of exclusions.

Additionally, the section changes the approach to when claims are excluded. Under current law, the vendor has to warrant that there will be no defects during a particular period - one year for most defects, two years for electrical, heating, and plumbing defects, and ten years for major defects. This bill would provide that the claim cannot be brought unless the defect not only occurs during the warranty period, but is discovered by the consumer during the warranty period. Therefore, even if a defect arose during the warranty period, the consumer could not bring an action under the warranty if the consumer did not discover the defect during the warranty period.

- 3 **Statutory cure.** Provides that at least 90 days before filing a cause of action under the

Section

statutory warranty, the homeowner has to notify the vendor or contractor of the defect and give the vendor or contractor an opportunity to cure the defect. The vendor or contractor would then notify the homeowner of what the vendor or contractor would propose to cure the defect. The parties would then exchange offers and responses before a cause of action was filed.

4 Statute of limitations for warranties. The current statute of limitations for claims based on breach of warranties related to condominium sales is six years, with a provision allowing it to be limited to two years by agreement. This section would set the statute of limitations at two years.

5 Statutory or express warranties. Current law states that the general statute of limitations for causes of action based on breach of statutory warranties is two years after discovery of the breach. This section would instead state that actions would be prohibited for a defect that is discovered after the warranty period. In other words, the current statute of limitations is based on the time the consumer discovers the breach as compared to when the action is filed; the bill would create a limitation based on whether the defect was discovered during the warranty period.