

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE SUBSTITUTE
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FOR

SENATE BILL NO. 1081

AN ACT

2 To amend chapter 431, RSMo, by adding thereto
3 eight new sections relating to resolution of
4 disputes concerning alleged defective
5 residential construction.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
7 AS FOLLOWS:

8 Section A. Chapter 431, RSMo, is amended by adding thereto
9 eight new sections, to be known as sections 431.300, 431.303,
10 431.306, 431.309, 431.312, 431.315, 1 and 2, to read as follows:

11 431.300. As used in sections 431.300 to 431.315, unless the
12 context clearly requires otherwise, the following terms shall
13 mean:

14 (1) "Action", any civil lawsuit, action, or arbitration
15 proceeding, in contract or tort, or otherwise, for damages or
16 indemnity, brought to assert a claim, whether by petition,

1 complaint, counterclaim, or cross-claim, for damage to,
2 diminution in the value of, or the loss of use of real or
3 personal property caused by an alleged construction defect.
4 Action does not include any civil action in tort alleging
5 personal injury or wrongful death to a person or persons
6 resulting from an alleged construction defect;

7 (2) "Association":

8 (a) An association or unit owners' association as defined
9 and provided for in subdivision (3) of section 448.1-103, RSMo;

10 (b) A homeowner's association, including but not limited
11 to, a nonprofit corporation or unincorporated association of home
12 owners created pursuant to a declaration to own and operate
13 portions of a planned community or other residential subdivision
14 and which has the power under the declaration to assess
15 association members to pay the costs and expenses incurred in the
16 performance of the association's obligations under the
17 declaration, or tenants-in-common with respect to the ownership
18 of common areas or amenities of a planned community or other
19 residential subdivision; or

20 (c) Any cooperative form of ownership of multiunit housing;

21 (3) "Claimant", a homeowner or association which asserts a
22 claim against a contractor concerning an alleged construction
23 defect;

24 (4) "Construction defect", for the purposes of sections
25 431.300 to 431.315, a deficiency in, or a deficiency arising out

1 of, any of the following:

2 (a) Defective material, products, or components used in new
3 residential construction or from a substantial remodel;

4 (b) Violation of the applicable codes and ordinances,
5 including those ordinances which regulate zoning and the
6 subdivision of land, in effect at the time of the commencement of
7 construction of residential improvements, or as to a substantive
8 remodel, at the commencement of such substantial remodel;
9 provided however, that any matter that is in compliance with
10 applicable codes and ordinances, including without limitation,
11 those ordinances which regulate zoning and the subdivision of
12 land, in effect at the commencement of construction of
13 residential improvements, or to a substantial remodel as the case
14 may be, shall conclusively establish that such matter is not, nor
15 shall it be deemed or construed to be a construction defect,
16 unless a construction defect as to such matter is established
17 because of defective material, products, or components used in
18 new residential construction or in a substantial remodel;

19 (c) Failure to construct residential improvements in
20 accordance with accepted trade standards for good and workmanlike
21 construction at the time of construction. Compliance with the
22 applicable codes and ordinances, including without limitation,
23 those ordinances which regulate zoning and the subdivision of
24 land, in effect at the commencement of construction, or of a
25 substantial remodeling as the case may be, shall conclusively

1 establish construction in accordance with accepted trade
2 standards for good and workmanlike construction, with respect to
3 all matters specified in those codes;

4 (d) Failure to construct residential improvements in
5 accordance with the agreement between the contractor and the
6 claimant, notwithstanding anything to the contrary in this
7 subdivision;

8 (5) "Contractor", any person, company, firm, partnership,
9 corporation, association, or other entity that is engaged in the
10 business of designing, developing, constructing, or substantially
11 remodeling residences;

12 (6) "Homeowner", any person, company, firm, partnership,
13 corporation, association, or other entity who contracts with a
14 contractor for the construction, substantial remodel of a
15 residence, or the sale of a residence constructed by such
16 contractor. Homeowner also includes a subsequent purchaser of a
17 residence from any homeowner;

18 (7) "Residence", a single-family house, duplex, triplex,
19 quadraplex, or a unit in a multiunit residential structure in
20 which title to each individual unit is transferred to the owner
21 under a condominium or cooperative system, and shall include
22 common areas and common elements as defined in subdivision (4) of
23 section 448.1-103, RSMo. Residence shall include the land and
24 improvements to land under and around the house, unit, or
25 structure. Residence shall not include a manufactured home as

1 defined in section 700.010, RSMo;

2 (8) "Serve" or "service", personal service to the person
3 intended to be notified or mailing to the last known address of
4 such person;

5 (9) "Substantial remodel", a remodel of a residence, for
6 which the total cost exceeds one-half of the assessed value of
7 the residence for property tax purposes at the time the contract
8 for the remodel work was made.

9 431.303. 1. The contractor shall provide notice to each
10 homeowner upon entering into a contract for sale, construction,
11 or substantial remodel of a residence of the contractor's right
12 to offer to cure construction defects before a claimant may
13 commence action against the contractor pursuant to sections
14 431.300 to 431.315. Such notice shall be conspicuous and may be
15 included as part of the underlying contract signed by the
16 homeowner. In the sale of a condominium unit, the requirement
17 for delivery of such notice shall be deemed satisfied if
18 contained in a public offering statement in accordance with the
19 laws of this state.

20 2. The notice required by this subsection shall provide
21 time frame guidelines for dates to comply with said act for both
22 the claimant and contractor and shall be in substantially the
23 following form in a single and separate document:

24 SECTIONS 431.300 TO 431.315 OF MISSOURI REVISED STATUTES
25 PROVIDES YOU WITH CERTAIN RIGHTS IF YOU HAVE A DISPUTE WITH A

1 CONTRACTOR REGARDING CONSTRUCTION DEFECTS. IF YOU HAVE A DISPUTE
2 WITH A CONTRACTOR, YOU MUST DELIVER TO THE CONTRACTOR A WRITTEN
3 CLAIM OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND
4 PROVIDE YOUR CONTRACTOR THE OPPORTUNITY TO MAKE AN OFFER TO
5 REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT
6 ANY OFFER MADE BY THE CONTRACTOR. UNLESS YOUR CONTRACTOR REFUSES
7 TO RESPOND TO YOUR NOTICE OR REFUSES TO MAKE AN OFFER TO REPAIR
8 OR PAY FOR THE DEFECTS, YOU WILL BE REQUIRED TO ATTEMPT TO
9 RESOLVE YOUR DISPUTE THROUGH MEDIATION PRIOR TO FILING SUIT.
10 BEFORE YOU MAY FILE A LAWSUIT, YOU MUST FILE A CLAIM AS NOTED
11 ABOVE AND ATTEMPT TO RESOLVE THE CONSTRUCTION DEFECT DISPUTE AT
12 LEAST NINETY DAYS BEFORE YOU FILE A LAWSUIT. READ THIS NOTICE
13 CAREFULLY. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER
14 SECTIONS 431.300 TO 431.315 WHICH MUST BE OBEYED IN ORDER TO
15 PRESERVE YOUR ABILITY TO FILE A LAWSUIT. OTHER THAN REPAIRS TO
16 WORK DONE BY THE CONTRACTOR THAT ARE NECESSARY TO PROTECT THE
17 LIFE, HEALTH, OR SAFETY OF PERSONS LIVING IN A RESIDENCE, OR TO
18 AVOID ADDITIONAL SIGNIFICANT AND MATERIAL DAMAGE TO THE RESIDENCE
19 PURSUANT TO SECTION 431.306(10), YOU MAY NOT INCLUDE IN CLAIMS
20 AGAINST YOUR CONTRACTOR THE COSTS OF OTHER REPAIRS YOU PERFORM
21 BEFORE YOU ARE ENTITLED TO FILE A LAWSUIT UNDER SECTIONS 431.300
22 TO 431.312.

23 3. Nothing in sections 431.300 to 431.315 shall preclude or
24 bar any action if a notice is not given to the claimant as
25 required by this section and the provisions of sections 431.300

1 to 431.315 shall not apply to any claim of a claimant against a
2 contractor if such contractor failed to provide the written
3 notice required by section 431.303.

4 431.306. 1. In every action against a contractor arising
5 from construction or substantial remodel of a residence, a
6 claimant shall serve the contractor with a written notice of
7 claim of construction defects. Prior to commencing any action
8 alleging a construction defect or after the dismissal of any
9 action without prejudice pursuant to subsection 6 of this section
10 the claimant must wait ninety days after serving the contractor
11 with the written notice of claim of construction defect before
12 filing an action or before becoming a member of a class certified
13 pursuant to the applicable rules of civil procedure. The notice
14 of claim shall state that the claimant asserts a construction
15 defect claim against the contractor and shall describe the claim
16 in reasonable detail sufficient to determine the general nature
17 of the defect as well as any known results of the defect.

18 2. Within fourteen days after service of the notice of
19 claim, the contractor shall serve a written response on the
20 claimant which shall:

21 (1) Propose to inspect the residence that is the subject of
22 the claim and to complete the inspection within a specified time
23 frame. The proposal shall include the statement that the
24 contractor shall, based on the inspection, thereafter offer to
25 remedy the defect within a specified time frame, compromise by

1 payment, or dispute the claim; or

2 (2) Offer to remedy the claim without an inspection within
3 a specified time frame; or

4 (3) Offer to remedy part of the claim without inspection
5 and compromise and settle the remainder of the claim by monetary
6 payment within a specified time frame; or

7 (4) Offer to compromise and settle all of a claim without
8 inspection. A contractor's offer pursuant to this subdivision to
9 compromise and settle a claimant's or association's claim may
10 include, but is not limited to, an express offer to purchase the
11 claimant's residence that is the subject of the claim; or

12 (5) State that the contractor disputes the claim and will
13 neither remedy the construction defect nor compromise and settle
14 the claim.

15 3. (1) If the contractor disputes the claim pursuant to
16 subdivision (5) of subsection 2 of this section or does not
17 respond to the claimant's notice of claim within the time stated
18 in subsection 2 of this section, the claimant may bring an action
19 against the contractor for the defect described in the notice of
20 claim without further notice.

21 (2) If the claimant rejects the inspection proposal or the
22 settlement offer made by the contractor pursuant to subsection 2
23 of this section, the claimant shall serve written notice of the
24 claimant's rejection on the contractor. The notice shall include
25 the basis for claimant's rejection. After service of the

1 rejection, the claimant and contractor shall attempt to resolve
2 the claim through mediation in accordance with section 431.312.
3 If the claim is not resolved through mediation, the claimant may
4 bring an action against the contractor for the construction
5 defect claim without further notice described in the notice of
6 claim. If the contractor has not received from the claimant
7 within thirty days after the claimant's receipt of the
8 contractor's response either an acceptance or rejection of the
9 inspection proposal or settlement offer, the contractor may at
10 any time thereafter terminate the proposal or offer by serving
11 written notice to the claimant. If the contractor so terminates
12 the proposal, the claimant may thereafter bring an action against
13 the contractor for the defect described in the notice of claim
14 without further notice.

15 (3) If the claimant elects to accept the offer of the
16 contractor to remedy the claim without an inspection pursuant to
17 subdivision (2) of subsection 2 of this section, or if the
18 claimant elects to accept the offer of the contractor to remedy
19 part of the claim without inspection and compromise and settle
20 the remainder of the claim by monetary payment pursuant to
21 subdivision (3) of subsection 2 of this section, the claimant
22 shall provide the contractor and its contractors or other agents
23 reasonable access to the claimant's residence during normal
24 working hours to perform and complete the construction or work in
25 accordance with the timetable stated in the offer. Any dispute

1 relating to performance of the remedial construction or work by
2 the contractor shall be subject to mediation in accordance with
3 section 431.312. If the dispute is not resolved by mediation,
4 the claimant may bring an action against the contractor for the
5 defect described in the notice of claim.

6 4. (1) If the claimant elects to allow the contractor to
7 inspect in accordance with the contractor's proposal pursuant to
8 subdivision (1) of subsection 2 of this section, within fourteen
9 days after the date of the claimant's election to allow an
10 inspection is communicated to the contractor, the claimant and
11 contractor shall agree on a time and date for the inspection, and
12 such inspection shall occur within fourteen days from the date of
13 the communication of such election for an inspection unless the
14 claimant and contractor agree to a later date. The claimant
15 shall provide the contractor and its subcontractors, suppliers,
16 or other agents reasonable access to the claimant's residence
17 during normal working hours to inspect the premises and the
18 claimed defect. The contractor shall perform the inspection at
19 its own cost. If destructive testing is necessary, the
20 contractor shall repair all damage caused by the testing.

21 (2) Within fourteen days following completion of the
22 inspection, the contractor shall serve on the claimant:

23 (a) A written offer to remedy all of the claim at no cost
24 to the claimant, including a report of the scope of the
25 inspection, the findings and results of the inspection, a

1 description of the construction or work necessary to remedy the
2 defect described in the claim, and a timetable for the completion
3 of such construction or work;

4 (b) A written offer to remedy part of the claim, and
5 compromise and settle the remainder of the claim by monetary
6 payment, within a specified time frame; or

7 (c) A written offer to compromise and settle all of the
8 claim by monetary payment pursuant to subdivision (2) of
9 subsection 2 of this section; or

10 (d) A written statement that the contractor will not
11 proceed further to remedy the defect.

12 (3) If the contractor does not proceed further to remedy
13 the construction defect within the stated timetable, or if the
14 contractor fails to comply with the provisions of subdivision (2)
15 of this subsection, the claimant may bring an action against the
16 contractor for the defect described in the notice of claim
17 without further notice.

18 (4) If the claimant rejects the offer made by the
19 contractor pursuant to paragraph (a), (b), or (c) of subdivision
20 (2) of this subsection to either remedy the construction defect
21 or remedy part of the claim and make a monetary settlement as to
22 the remainder of the claim or to compromise and settle the claim
23 by monetary payment, the claimant shall serve written notice of
24 the claimant's rejection and the reasons for the rejection on the
25 contractor. After service of the rejection notice, the claimant

1 and contractor shall attempt to resolve the dispute through
2 mediation in accordance with section 431.312. If the dispute is
3 not resolved through mediation, the claimant may bring an action
4 against the contractor for the defect described in the notice of
5 claim. If the contractor has not received from the claimant
6 within thirty days after the claimant's receipt of the
7 contractor's response either an acceptance or rejection of the
8 offer made pursuant to paragraph (a), (b), or (c) of subdivision
9 (2) of this subsection, the contractor may at any time thereafter
10 terminate the offer by serving written notice to the claimant.
11 If the contractor so terminates its offer, the claimant may bring
12 an action against the contractor for the claim described in the
13 notice of claim without further notice.

14 5. (1) Any claimant accepting the offer of a contractor to
15 remedy all or part of the construction defect pursuant to
16 paragraph (a) or (b) of subdivision (2) of subsection 4 of this
17 section shall do so by serving the contractor with a written
18 notice of acceptance within a reasonable time period after
19 receipt of the offer, and no later than thirty days after receipt
20 of the offer. The claimant shall provide the contractor and its
21 subcontractors or other agents reasonable access to the
22 claimant's residence during normal working hours to perform and
23 complete the construction or work by the timetable stated in the
24 offer. Any dispute relating to performance of the remedial
25 construction or work by the contractor shall be subject to

1 mediation in accordance with section 431.312. If the dispute is
2 not resolved by mediation, the claimant may bring an action
3 against the contractor for the defect described in the notice of
4 claim.

5 (2) The claimant and contractor may, by mutual written
6 agreement, alter the extent of construction or the timetable for
7 completion of construction stated in the offer, including, but
8 not limited to, repair of additional defects.

9 6. Any action commenced by a claimant prior to compliance
10 with the requirements of this section shall, upon motion by a
11 party to the action, be subject to dismissal without prejudice,
12 and shall not be recommenced until the claimant has complied with
13 the requirements of this section if the court finds the claimant
14 knowingly violated the sections of said act.

15 7. The claimant may amend the notice of claim to include
16 construction defects discovered after the service of the original
17 notice of claim and shall otherwise comply with the requirements
18 of this section for the additional claims. The service of an
19 amended notice of claim shall relate back to the original notice
20 of claim for purposes of tolling statutes of limitations and
21 repose. Claims for defects discovered after the commencement or
22 recommencement of an action may be added to such action only
23 after providing notice to the contractor of the defect and
24 allowing for response under subsection 2 of this section.

25 8. A claimant's written notice of claim pursuant to

1 subsection 1 of this section shall toll the applicable statute of
2 limitation for a period equal to sixty days plus the period from
3 service by a claimant of a notice of claim as required pursuant
4 to subsection 1 of section 431.306 through the date on which a
5 claimant may proceed with an action as provided under sections
6 431.300 to 431.315.

7 9. A written notice of claim and any written response by a
8 contractor shall be treated as a settlement offer and shall not
9 be admissible in an action related to a construction defect
10 asserted therein, except as otherwise permitted by law. A
11 written notice of claim and any written response by a contractor
12 shall not be admissible as a prior inconsistent statement.

13 10. In the event that immediate action must be taken by a
14 claimant to prevent imminent injury to persons because of alleged
15 construction defects that threaten the life or safety of persons,
16 or alleged construction defects that if not addressed will result
17 in significant and material additional damage to the residence,
18 the homeowner or another person designated by the homeowner
19 including the contractor may undertake reasonable repairs
20 necessary to mitigate the emergency situation. Claimants may
21 thereafter include the cost of such repairs in the written notice
22 of claim of construction defects provided for in subsection 1 of
23 this section. Provided, however, that other than the undertaking
24 of immediate repairs to remedy an emergency situation, any
25 repairs to construction defects undertaken by homeowners shall

1 not be included in claims initiated under subsection 2 of this
2 section, and shall not be the subject of an action.

3 11. The mediation shall take place in the county where the
4 claimants resides or in a mutually agreed to location.

5 431.309. 1. (1) If an association or an executive board
6 acting on behalf of an association institutes an action asserting
7 defects in the construction of two or more residences, common
8 elements, or common areas, the provisions of this section shall
9 apply. For purposes of this section, "action" has the same
10 meaning as set forth in subsection 1 of section 431.300.

11 (2) The board of directors or executive board of the
12 association shall substantially comply with the provisions of
13 this section.

14 2. (1) Prior to filing an action alleging a construction
15 defect, the association or board of directors or executive board
16 shall serve written notice of the anticipated commencement of
17 such action to each claimant who is a member of the association
18 at the last known address described in the association's records.

19 (2) The notice required by subdivision (1) of this
20 subsection shall state a general description of the following:

21 (a) The nature of the action and the relief sought; and

22 (b) The expenses and fees that the board of directors or
23 executive board anticipates will be incurred in prosecuting the
24 action.

25 (3) The association or board of directors or executive

1 board shall obtain written consent to proceed with the action
2 from a majority of the homeowners who are members of the
3 association.

4 3. Nothing in this section shall be construed to:

5 (1) Require the disclosure in the notice or the disclosure
6 to a unit owner of attorney-client communications or other
7 privileged communications;

8 (2) Permit the notice to serve as a basis for any person to
9 assert the waiver of any applicable privilege or right of
10 confidentiality resulting from or to claim immunity in connection
11 with the disclosure of information in the notice; or

12 (3) Limit or impair the authority of the association or
13 executive board to contract for legal services, limit or impair
14 the ability of the association or executive board to make such
15 repairs to a unit, common area, or common element as are required
16 to protect the health, safety, and welfare of the units' owners,
17 or limit or impair the ability to enforce such a contract for
18 legal services.

19 431.312. 1. Unless a contractor either fails to respond to
20 a written notice of claim or completely disputes a written notice
21 of claim and refuses to remedy pursuant to subdivision (1) of
22 subsection 3 of section 431.306, or a contractor takes no action
23 to remedy a defect following inspection, or takes no action
24 following an offer to remedy or takes no action following an
25 offer to remedy part of a defect and compromise and settle the

1 remainder, or does not provide a written offer to remedy or
2 compromise as provided in section 431.306, a claimant shall
3 attempt to resolve a claim against a contractor through mediation
4 before commencing an action against a contractor arising from
5 construction or substantial remodel of a residence. Mediation
6 pursuant to this section shall be nonbinding and the contractor
7 and claimant shall mutually agree upon a qualified independent
8 mediator and shall equally share the cost of the mediator. If
9 the parties cannot agree upon a mediator, either party may
10 request appointment of a mediator by a court with jurisdiction.
11 The mediation shall take place within a reasonable time period,
12 but in no event later than forty-five days after service of a
13 request for mediation by a claimant upon a contractor or a
14 request by a contractor upon a claimant. A contractor which
15 receives a request for mediation from a claimant shall serve a
16 response in writing within fourteen days and shall include within
17 the response the name of a proposed mediator and mediation date.
18 A claimant who receives a request for mediation from a contractor
19 shall serve a response in writing within fourteen days and shall
20 include within the response the name of a proposed mediator and
21 mediation date.

22 2. The contractor or claimant may include in the mediation
23 any person or entity reasonably necessary for resolution of the
24 claim asserted. This subsection shall not be construed to
25 mandate attendance at a mediation by a person or entity other

1 than the contractor or claimant served with a notice of claim.

2 3. If all the parties to a dispute agree in writing to
3 submit their dispute to any forum for arbitration, conciliation
4 or mediation, then no person who serves as arbitrator,
5 conciliator or mediator, nor any agent or employee of that
6 person, shall be subpoenaed or otherwise compelled to disclose
7 any matter disclosed in the process of setting up or conducting
8 the arbitration, conciliation or mediation.

9 4. Arbitration, conciliation and mediation proceedings
10 shall be regarded as settlement negotiations.

11 5. Notwithstanding any provisions of law or the agreements
12 of the parties to the contrary, the resolution of the dispute by
13 the parties through mediation or otherwise shall not operate to
14 release any claim of the claimant except the claim described in
15 the notice of defect, and shall not operate to release the claim
16 described in the notice of defect until the agreed upon remedy
17 has been accomplished.

18 431.315. 1. Nothing in sections 431.300 to 431.315 shall
19 be construed to create a theory or cause of action upon which
20 liability may be based or to limit any causes of action or
21 remedies otherwise available to a homeowner or contractor
22 pursuant to law after giving effect to the provisions of sections
23 431.300 to 431.315, nor to hinder or otherwise affect the
24 employment, agency, or contractual relationship between
25 homeowners and contractors during the process of construction or

1 remodeling, and does not preclude the termination of those
2 relationships as allowed under current law. Nothing in sections
3 431.300 to 431.315 shall negate or otherwise restrict a
4 contractor's right to access or inspection provided by law,
5 covenant, easement, or contract.

6 2. Nothing in sections 431.300 to 431.315 shall be
7 construed to prevent contracts between contractors and homeowners
8 from specifying that disputes shall be resolved by binding
9 arbitration pursuant to chapter 435, RSMo. In contracts between
10 contractors and homeowners that specify binding arbitration as
11 the means of dispute resolution, sections 431.300 to 431.315
12 shall not be applicable; provided, in those contracts between
13 contractors and homeowners that specify binding arbitration as
14 the means of dispute resolution, the contractor shall provide
15 notice, pursuant to section 435.460, that disputes may be
16 resolved by binding arbitration and sections 431.300 to 431.315
17 are not applicable to such transactions.

18 3. In the event a claim for a construction defect of which
19 the repair would not exceed the applicable dollar limit for a
20 matter before the small claims court having jurisdiction over the
21 construction defect claim is mediated pursuant to sections
22 431.300 to 431.315, the contractor will pay the first five
23 hundred dollars of any mediator's charges for such mediation
24 otherwise paid by the claimant.

25 Section 1. 1. A real estate licensee shall be immune from

1 liability for statements made by engineers, land surveyors,
2 geologists, environmental hazard experts, wood destroying
3 inspection and control experts, termite inspectors, mortgage
4 brokers, home inspectors, or other home inspection experts
5 unless:

6 (1) The statement was made by a person employed by the
7 licensee or the broker with whom the licensee is associated;

8 (2) The person making the statement was selected by and
9 engaged by the licensee; or

10 (3) The licensee knew prior to closing that the statement
11 was false or acted in reckless disregard as to whether the
12 statement was true or false.

13 2. A real estate licensee shall not be the subject of any
14 action and no action shall be instituted against a real estate
15 licensee for any information contained in a seller's disclosure
16 for residential, commercial, industrial, farm, or vacant real
17 estate furnished to a buyer, unless the real estate licensee is a
18 signatory to such or the licensee knew prior to closing that the
19 statement was false or acted in reckless disregard as to whether
20 the statement was true or false.

21 3. A real estate licensee acting as a courier of documents
22 referenced in this section shall not be considered to be making
23 the statements contained in such documents.

24 Section 2. If any provision of sections 431.300 to 431.315
25 and section 1 is found by a court of competent jurisdiction to be

1 invalid or unconstitutional it is the stated intent of the
2 general assembly that the general assembly would have approved
3 the remaining portions of sections 431.300 to 431.315 and section
4 1, and the remaining portions of sections 431.300 to 431.315 and
5 section 1 shall remain in full force and effect.