

HCS HB 347 -- DEFECTIVE RESIDENTIAL CONSTRUCTION

SPONSOR: Johnson, 47 (Pratt)

COMMITTEE ACTION: Voted "do pass" by the Committee on Local Government by a vote of 13 to 3.

This substitute establishes a procedural prerequisite for filing a lawsuit for defective residential construction. In its main provisions, the substitute:

- (1) Requires contractors to provide written notice to homeowners, including homeowners' associations, upon entering contracts of the right to offer to cure construction defects before homeowners may file legal actions;
- (2) Requires homeowners to provide a written notice to contractors detailing the alleged defective construction prior to filing a lawsuit;
- (3) Requires contractors to respond timely in writing, offering an inspection followed by repair, monetary compensation, or disputation of the claim; offering monetary compensation; or disputing the claim; and
- (4) Describes the circumstances in which homeowners must first attempt a mediation of claims or when they may proceed directly to filing a lawsuit.

FISCAL NOTE: No impact on state funds in FY 2006, FY 2007, and FY 2008.

PROPOSERS: Supporters say that the bill provides protections for both homeowners and homebuilders, gives builders a better method to serve their clients' needs, and provides both parties the opportunity to avoid litigation, thereby saving money.

Testifying for the bill were Representative Pratt; Home Builders Association of Greater Kansas City; Home Builders Association of Missouri; St. Louis Home Builders Association; and Missouri Chamber of Commerce and Industry.

OPPOSERS: Those who oppose the bill say that the state constitution guarantees a right to go to court without delay. The mandatory mediation provisions will cause delays and are not included in legislation passed by other states. The procedure is so complex that it will always require attorney participation, thus thwarting one of the stated goals of the legislation.

Testifying against the bill were Board of Governors of the Missouri Bar; Community Associations Institute; and Homeowners Against Deficient Dwellings, Incorporated.

OTHERS: Others testifying on the bill say they support the suggested changes based on Senate Bill 1081 which was vetoed last year.

Others testifying on the bill was Missouri Association of Trial Attorneys.

Julie Jinkens McNitt, Legislative Analyst