

Home Warranty

New laws bring changes to home warranties

Early neutral evaluation process created to reduce costly litigation

In fall 2009, DLI created a Homeowner Warranty Task Force consisting of homeowners, builders, insurance professionals and attorneys to search for better ways for homeowners and builders to resolve warranty disputes without expensive and lengthy litigation. The task force met several times, and as a result, HF 3386 and SF 2832 were introduced and signed into law by Gov. Tim Pawlenty on May 13, 2010.

The main element of the bill is the creation of an early neutral evaluation (ENE) process for the review of homeowners' claims against a builder.

Under this new law, effective Jan. 1, 2011, homeowners must submit their warranty claim to the ENE process before they can file a lawsuit against the builder. CCLD, which administers the ENE process, will accept applications from experienced and qualified individuals who will make up a panel of approved neutrals.

The neutral reviews all of the information submitted by

the homeowner and builder and then provides a report that suggests an appropriate scope of repair to be performed. The neutral's report is not binding for either party, but is intended to give the parties a relatively quick and inexpensive review of the merits of the case from an informed but unbiased third party. While the ENE process is underway, the new law also "stops the clock" on any time limits for a homeowner to file a lawsuit against their builder for any type of claim.

Law adds written performance standards requirements

Another important provision of HF 3386 and SF 2832 is a requirement that builders include written performance standards as a part of their contract with their customers. The law does not specify what the standards must be, but does require that they be reduced to writing and be made a part of the contract.

The Homeowner Warranty Task Force continues to meet monthly to provide guidance to the DLI commissioner about the implementation of CCLD's role in the ENE process and to continue to seek more effective and efficient processes for homeowners and builders to resolve warranty disputes.

How the early neutral evaluation process works:

When a homeowner contacts CCLD to start the early neutral evaluation process, the homeowner will be given the names of three neutral individuals and they will be asked to strike one from the list. The builder then is allowed to strike one, and the remaining individual (the neutral) would handle the case.

The law limits the time the neutral can spend reviewing the case to six hours and the neutral's billing is to be split by the parties. The neutral can spend more time reviewing the case if the parties agree to the lengthier review.

The parties can also agree to bypass the ENE process altogether and employ another form of dispute resolution prior to the commencement of litigation. Homeowners are also free to skip the ENE process if their builder fails to comply with the "notice and opportunity to repair" provisions of the warranty law, which are also the subject of new and clearer guidelines under the new law.