

CHAPTER 65—H.F.No.38

[Coded]

An act relating to housing; providing statutory warranties on the sale of new housing; establishing a cause of action for breach of warranty; providing remedies; amending Minnesota Statutes 1976, Section 541.051, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [327A.01] HOUSING; WARRANTIES; DEFINITIONS. Subdivision 1. As used in sections 1 to 7, the terms in this section shall have the meanings assigned to them.

Subd. 2. "Building standards" means the structural, mechanical, electrical, and quality standards of the home building industry for the geographic area in which the dwelling is situated.

Subd. 3. "Dwelling" means a new building, not previously occupied, constructed for the purpose of habitation; but does not include appurtenant recreational facilities, detached garages, driveways, walkways, patios, boundary walls, retaining walls not necessary for the structural stability of the dwelling, landscaping, fences, nonpermanent construction materials, off-site improvements, and all other similar items.

Subd. 4. "Initial vendee" means a person who first contracts to purchase a dwelling from a vendor for the purpose of habitation and not for resale in the ordinary course of trade.

Subd. 5. "Major construction defect" means actual damage to the load-bearing portion of the dwelling, including damage due to subsidence, expansion or lateral movement of the soil, which affects its load-bearing function and which vitally affects or is imminently likely to vitally affect use of the dwelling for residential purposes. "Major construction defect" does not include damage due to movement of the soil caused by flood, earthquake or other natural disaster.

Subd. 6. "Vendee" means any purchaser of a dwelling and includes the initial vendee and any subsequent purchasers.

Subd. 7. "Vendor" means any person, firm or corporation which constructs dwellings for the purpose of sale, including the construction of dwellings on land owned by vendees.

Subd. 8. "Warranty date" means the date from and after which the statutory warranties provided in section 2 shall be effective, and is the earliest of

(a) The date of the initial vendee's first occupancy of the dwelling; or

Changes or additions indicated by underline deletions by ~~strikeout~~

(b) The date on which the initial vendee takes legal or equitable title in the dwelling.

Sec. 2. [327A.02] STATUTORY WARRANTIES. Subdivision 1. In every sale of a completed dwelling, and in every contract for the sale of a dwelling to be completed, the vendor shall warrant to the vendee that:

(a) During the one year period from and after the warranty date the dwelling shall be free from defects caused by faulty workmanship and defective materials due to noncompliance with building standards;

(b) During the two year period from and after the warranty date, the dwelling shall be free from defects caused by faulty installation of plumbing, electrical, heating, and cooling systems; and

(c) During the ten year period from and after the warranty date, the dwelling shall be free from major construction defects.

Subd. 2. The statutory warranties provided in section 2 shall survive the passing of legal or equitable title in the dwelling to the vendee.

Sec. 3. [327A.03] EXCLUSIONS. The liability of the vendor under sections 1 to 7 is limited to the specific items set forth in sections 1 to 7 and does not extend to the following:

(a) Loss or damage not reported by the vendee to the vendor in writing within six months after the vendee discovers or should have discovered the loss or damage;

(b) Loss or damage caused by defects in design, installation, or materials which the vendee supplied, installed, or had installed under his direction;

(c) Secondary loss or damage such as personal injury or property damage;

(d) Loss or damage from normal wear and tear;

(e) Loss or damage from normal shrinkage caused by drying of the dwelling within tolerances of building standards;

(f) Loss or damage from dampness and condensation due to insufficient ventilation after occupancy;

(g) Loss or damage from negligence, improper maintenance or alteration of the dwelling by parties other than the vendor;

(h) Loss or damage from changes in grading of the ground around the dwelling by parties other than the vendor;

(i) Landscaping or insect loss or damage;

Changes or additions indicated by underline deletions by strikeout

(j) Loss or damage from failure to maintain the dwelling in good repair;

(k) Loss or damage which the vendee, whenever feasible, has not taken timely action to minimize;

(l) Loss or damage which occurs after the dwelling is no longer used primarily as a residence;

(m) Accidental loss or damage usually described as acts of God, including, but not limited to: fire, explosion, smoke, water escape, windstorm, hail or lightning, falling trees, aircraft and vehicles, flood, and earthquake, except when the loss or damage is caused by failure to comply with building standards;

(n) Loss or damage from soil movement which is compensated by legislation or covered by insurance;

(o) Loss or damage due to soil conditions where construction is done upon lands owned by the vendee and obtained by him from a source independent of the vendor.

Sec. 4. [327A.04] WAIVER AND MODIFICATION LIMITED. Subdivision 1. Except as provided in subdivisions 2 and 3 of this section, the provisions of sections 1 to 7 cannot be waived or modified by contract or otherwise. Any agreement which purports to waive or modify the provisions of sections 1 to 7, except as provided in subdivisions 2 and 3 of this section, shall be void.

Subd. 2. At any time after a contract for the sale of a dwelling is entered into by and between a vendor and a vendee, any of the statutory warranties provided for in section 2 may be excluded or modified only by a written instrument, printed in bold face type of a minimum size of ten points, which is signed by the vendee and which sets forth in detail the warranty involved, the consent of the vendee, and the terms of the new agreement contained in the writing. No exclusion or modification shall be effective unless the vendor provides substitute express warranties offering substantially the same protections to the vendee as the statutory warranties set forth in section 2. Any modification or exclusion agreed to by vendee and vendor pursuant to this subdivision shall not require the approval of the commissioner of administration pursuant to section 7.

Subd. 3. If a major construction defect is discovered prior to the sale of a dwelling, the statutory warranty set forth in section 2, subdivision 1, clause (c) may be waived for the defect identified in the waiver instrument, after full oral disclosure of the specific defect, by an instrument which sets forth in detail: the specific defect; the difference between the value of the dwelling without the defect and the value of the dwelling with the defect, as determined and attested to by an independent appraiser, contractor, insurance adjuster, engineer or any other similarly knowledgeable person selected by the vendee; the price reduction; the date the construction was completed; the legal description of the dwelling; the consent of the vendee to the waiver; and the signatures of the vendee, the vendor, and two witnesses.

Changes or additions indicated by underline deletions by strikethrough

A single waiver agreed to pursuant to this subdivision may not apply to more than one major construction defect in a dwelling.

The waiver shall not be effective unless filed for recording with the county recorder or registrar of titles who shall file the waiver for record.

Sec. 5. [327A.05] REMEDIES. Upon breach of any warranty imposed by section 2, the vendee shall have a cause of action against the vendor for damages arising out of the breach, or for specific performance. Damages shall be limited to:

(a) The amount necessary to remedy the defect or breach; or

(b) The difference between the value of the dwelling without the defect and the value of the dwelling with the defect.

Sec. 6. [327A.06] OTHER WARRANTIES. The statutory warranties provided for in section 2 shall be in addition to all other warranties imposed by law or agreement. The remedies provided in section 5 shall not be construed as limiting the remedies in any action not predicated upon breach of the statutory warranties imposed by section 2.

Sec. 7. [327A.07] VARIATIONS. The commissioner of administration may approve pursuant to Minnesota Statutes, Section 15.0412, variations from the provisions of sections 2 and 3 if the warranty program of the vendor requesting the variation offers at least substantially the same protections to the vendee as provided by the statutory warranties set forth in section 2.

Sec. 8. Minnesota Statutes 1976, Section 541.051, is amended by adding a subdivision to read:

Subd. 4. Section 541.051 shall not apply to actions based on breach of the statutory warranties set forth in section 2.

Sec. 9. EFFECTIVE DATE. This act shall be effective January 1, 1978, and shall apply to all contracts for the sale of a dwelling signed on or after that date.

Approved May 5, 1977.

CHAPTER 66—S.F.No.651

[Coded in Part]

An act relating to health; developing standards for safe drinking water; providing penalties; defining terms; amending Minnesota Statutes 1976, Sections 115.71, Subdivision 7; and 144.12, Subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Changes or additions indicated by underline deletions by ~~strikeout~~