

OWNER-BUILT RESIDENCE TRANSFER ACT

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Senate Bill 577

Sponsor: Sen. Jud Gilbert, II

House Committee: Regulatory Reform

Senate Committee: Economic Development and Regulatory Reform

Complete to 11-26-07

A SUMMARY OF SENATE BILL 577 AS PASSED BY THE SENATE 10-24-07

The bill would regulate the use of an owner built home, require certain disclosures upon the transfer of an owner-built home to another person, and provide for penalties and remedies if the disclosure requirements were violated. The bill would apply to a residence that was built by an individual who was not a licensed builder and who intended to live, or intended a family member to live, in the home. The bill would take effect 180 days after enactment.

More specifically, the bill would create the "Owner Built Residence Transfer Act." Upon completion of construction and issuance of the occupancy permit for a residential structure, an owner-builder intending to live in the residential structure would have to either reside in the structure or place it up for sale in any legal manner. The later provision would only apply if, due to unforeseen circumstances, the owner-builder was unable to reside in the home. This exception could only be used once per calendar year.

Sale or transfer. An owner-builder who actually lived, whether full- or part-time, in the residential structure could not sell or transfer ownership to another for at least 120 days (about four months) after moving into the structure.

Disclosure requirements. An owner-builder who sold the home within two years or less after the date the occupancy permit was issued would have to note in the owner-builder notice form the fact that the home was built by the owner. The form would have to be on a separate sheet of paper, state in 12-point font or larger that the home had been built by an owner-builder who was not a licensed builder, and be signed and dated by the owner-builder. The notice would be supplied at the time the home was offered.

Penalties for failure to disclose. An owner-builder who failed to disclose the fact the home was not built by a licensed builder as required under the bill would be liable for the following:

- The repair costs for any defects in workmanship for up to 18 months after completion of construction, first occupancy, or purchase, whichever came later.
- The cost of any repairs needed to bring the structure into compliance with the building code in effect at the time of the issuance of the occupancy permit.

- The cost for temporary shelter for the buyers if the repairs required the buyer to vacate temporarily or if the defects rendered the structure uninhabitable.

Remedies for a buyer. The buyer of an owner-builder home could bring an action in a court of competent jurisdiction for damages that resulted from a violation of the disclosure requirements. An action would have to be filed within 18 months of completion of the construction, first occupancy, or purchase, whichever came later. If the buyer prevailed in whole or in part in the court action, the court would have to award cost and actual attorney fees.

The remedies allowed by the bill would be cumulative and the use of these remedies would not prevent the use of any other remedies allowed under law.

Definitions. "Owner-builder" would mean an individual who was not a licensed residential builder and who builds, or acts as a general contractor for the construction of, a residential structure in which he or she or a family member actually resides, or intends to occupy for his or her own use, upon the issuance of an occupancy permit.

A "residential structure" would mean a premises used or intended to be used as a residence and related facilities appurtenant to the premises used or intended to be used as an adjunct of residential occupancy (i.e., a garage).

"Residential builder" would mean that term as defined in the Occupational Code (MCL 339.2401).

FISCAL IMPACT:

The bill would have no fiscal impact on the Department of Labor and Economic Growth or local units of government. In addition, the bill would not have a significant fiscal impact on the judiciary; any fiscal impact would be related to increased caseload which would depend on the number of lawsuits that might be brought under the bill.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.