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BILL ANALYSIS

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Senate Bill 577 (as introduced 6-7-07)
Sponsor: Senator Jud Gilbert, II
Committee: Economic Development and Regulatory Reform

Date Completed: 10-17-07

CONTENT

The bill would create the "Owner Built Residence Transfer Act" to do all of the following:

- Require an "owner-builder" who had sold two or fewer "residential structures" in the past year to live in a completed residential structure or place it for sale.**
- Prohibit an owner-builder who lived in a new residential structure from selling it or transferring ownership for at least 120 days.**
- Require an owner-builder, when offering a residential structure, to supply a notice that the structure was built by an owner-builder who was not a licensed builder.**
- Specify that an owner-builder who failed to comply with the disclosure requirements would be liable for repair costs and the buyer's temporary shelter costs.**
- Allow the buyer of an owner-builder residential structure to bring an action for damages resulting from a violation of the disclosure requirements.**

The bill would take effect 180 days after its enactment.

"Owner-builder" would mean a person who is not a licensed residential builder (defined below) and who builds, or acts as a general contractor for the construction of, a residential structure in which that person, or an agent, employee, partner, officer, trustee, member, or shareholder of that person, actually resides upon the issuance of an occupancy permit.

"Residential structure" would mean premises used or intended to be used for a residence purpose and related facilities appurtenant to the premises used or intended to be used as an adjunct of residential occupancy.

An owner-builder who had sold two or fewer residential structures within the past 12 calendar months would have to do either of the following upon completion of construction and issuance of the occupancy permit regarding a residential structure:

- Place the residential structure up for sale in any manner allowed by law.
- Live in the residential structure.

The first option would allow the owner-builder to decorate and place furniture in the structure but would not allow any individual actually to live in it.

An owner-builder who actually lived, full- or part-time, in that residential structure could not sell or transfer ownership of it to another person for at least 120 days after he or she actually began living in the structure.

At the time of offering the residential structure and on a separate sheet of paper, an owner-builder would have to supply an owner-builder notice stating in 12-point font or larger that the residential structure was built by an owner-builder who was not a licensed builder. The owner-builder would have to sign and date the notice. An owner-builder who sold the residential structure, within two years after the date the occupancy permit was issued, would have to note in the owner-builder notice form the fact that the residential structure was built by the owner.

An owner-builder who failed to make the required disclosures would be liable for the following:

- The cost of repair regarding any defects in workmanship.
- The cost of any repairs needed to bring the structure into compliance with the building code in effect at the time the occupancy permit was issued.
- The cost for temporary shelter for the buyer, if the repairs required the buyer to vacate temporarily or if the defects in the residential structure rendered it uninhabitable.

The buyer of an owner-builder residential structure could bring an action for damages resulting from a violation of the required disclosures. If the buyer prevailed in whole or part in the action, the court would have to award costs and actual attorney fees.

Remedies under the bill would be cumulative and the use of a remedy under the bill would not prevent the use of any other remedies allowed under law.

"Residential builder" would mean a person engaged in the construction of a residential structure or a combination residential and commercial structure who, for a fixed sum, price, fee, percentage, valuable consideration, or other compensation, other than wages for personal labor only, undertakes with another or offers to undertake or purports to have the capacity to undertake with another for the erection, construction, replacement, repair, alteration, or an addition to, subtraction from, improvement, wrecking of, or demolition of, a residential structure or combination residential and commercial structure. The term also would mean a person who manufactures, assembles, constructs, deals in, or distributes a residential or combination residential and commercial structure that is prefabricated, preassembled, precut, packaged, or shell housing; or a person who erects a residential structure or combination residential and commercial structure except for the person's own use and occupancy on the person's property.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Stephanie Yu

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.