



Ohio Residential Construction: Contractors' Right to Repair

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Building a new home or renovating an existing home can be a very exciting time for homeowners. But sometimes the contractor's work does not quite live up to homeowner's expectations. What are the homeowner's options? May the homeowner simply hire someone else to fix the problem? What legal action can the homeowner take? To what rights are the contractors entitled?

The Ohio Residential Code provides answers to these questions. It imposes certain rules on homeowners and residential contractors who build or substantially rehabilitate their homes. These rules impose a procedure on the homeowner that is a prerequisite to arbitration proceedings or certain lawsuits. The procedure is centered around giving the contractor notice before taking action against the contractor or hiring someone else to correct the defects. Contractors should provide notice of these rights in their contracts with homeowners.

Before commencing arbitration proceedings or filing a lawsuit, the homeowner must give the contractor notice of alleged defects in the construction. This notice must occur at least 60 days before the owner commences arbitration or files a lawsuit. The notice should itemize and describe any construction defects. Further, it should provide any documentation prepared by someone who inspected the contractor's work. The notice should also list the name, address, and phone number of the homeowner and contractor.

Once received, the contractor has 21 days to respond to the notice. The contractor may respond in one of three ways. It may (1) inspect the building and the construction defects alleged by the homeowner; (2) compromise and offer to settle the claim without inspection; or (3) dispute the claim.

The homeowner then has 14 days within which to either accept or reject the contractor's offer. If the contractor offers to inspect the alleged defects, and the homeowner accepts, the contractor must inspect the work within 14 days. Within 10 days after the inspection, the contractor must provide a written offer to remedy or a written offer to settle the claim. In the alternative, the contractor may provide a written statement asserting that the contractor does not intend to remedy the defects. Importantly, if an owner accepts the contractor's offer, and the contractor fulfills that offer, the owner is barred from pursuing arbitration or filing suit.

If the homeowner rejects the contractor's offer to inspect the property or to compromise and settle a claim, its rejection must include a reason for rejection. If the contractor fails to respond to the owner's notice, files a mechanic's lien, commences arbitration, or files a lawsuit, this portion of the Code no longer applies. If you are either a homeowner or a residential contractor in this situation, please contact Kelli Kleisinger in the Construction Section of Dressman, Benzinger & LaVelle, psc. Kelli can be reached at (513) 357-5283 or via email at kkleisinger@dbllaw.com.