

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1437

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1437

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1437

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2-7-05

Tape Number	Side A	Side B	Meter #
1	xx		19.8--end
1		xx	0.0--end
2	xx		0.0--19.9
Committee Clerk Signature <i>Pam Alver</i>			

Minutes: **Chair Keiser:** 19.8 Let's open the hearing on HB 1437.

Rep. Koppelman: here to support this bill. A sponsor will appear to talk on area of home-builders and homeowners. Current law is too vague and doesn't address home issues. Section 5 of the bill is very important. It's "a notice and opportunity to repair" feature. This cuts down on frivolous law suits. With this bill, if you find something wrong with your new home, you are required to go to the original builder. Any questions?

Rep. N. Johnson: Could this not have already been done in a contract?

Rep. Koppelman: Yes, it could. But we are looking for some kind of standard in ND.

Rep. Thorpe: 23.2 What brought the bill here?

Rep. Koppelman: Home builders. Right now we don't know what is the law or what is the warranty. Current law is too vague and doesn't address homes. (bad tape 23.5--24.5)

Chair Keiser: Any one else here in support?

Doreen Riedman, ND Assoc. Of Builders: 24.7 I'm here in support of HB 1437. We need to set liability limits for builders. (SEE ATTACHED TESTIMONY) (most of this can't be heard and questions and answers are not audible.

Rep. Dosch: 35.7 How is this warranty going to mean anything to the home buyer if the builder is not reputable?

Doreen: We always suggest you get a reputable builder. No question about it. The warranty is only as good as the builder. Insurance companies aren't real favorable to bonding residential. Too expensive and it would effect financing. We have talked about that before.

Rep. Ruby: 38.4 Are homeowner given a copy of rules and regulations on warranties?

Doreen: Up to the builder. There is a sight cost. Not a requirement. Strongly suggested.

Rep. Thorpe: Explain section 7, page 6, line 17.

Doreen: That deals with breech of warranty.

NOTE: (bad audio to end of tape 1, side A)
(begin side B, Tape 1 -- can't hear first 10 minutes)

Dave Reich - Pierce & Durrich Law Firm: In support of bill. This is modeled after MN law.

Rusty Wydoshi

NOTE: Unable to hear rest of side B, Tape 1. Too faint.

Tape 2, side A begins: very faint voices in background. Discussion on HB 1437 continues.

Tape is too bad to pick up conversation.

Committee came back later. Tape is too bad to pick up anything

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1437

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2-7-05

Tape Number	Side A	Side B	Meter #
3	xx		0.0-2.9
Committee Clerk Signature <i>Pam Dever</i>			

Minutes: **Chair Keiser:** Let's discuss this bill.

Rep. Froseth: The subcommittee, Rep. Thorpe, Rep. Nottstadt, and myself met with this group yesterday. We told them they would have to get rid of the exclusions, one and two and ten year provisions, for it to pass out of committee. They kind of agreed.

Rep. Kasper: I don't follow.

Rep. Froseth: The committee felt the bill was a more contractor protection bill instead of a consumers protection bill. All these exclusions we discussed in detail in committee and we felt the exclusions were harmful to the consumer. We felt the warranties were not adequate.

Discussion closed.

(went on to discuss another subcommittee)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1437

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2-9-05

Tape Number	Side A	Side B	Meter #
3	xx		0.0-2.9
Committee Clerk Signature			

Minutes: **Chair Keiser:** Let's discuss this bill.

Rep. Froseth: The subcommittee, Rep. Thorpe, Rep. Nottstadt, and myself met with this group yesterday. We told them they would have to get rid of the exclusions, one and two and ten year provisions, for it to pass out of committee. They kind of agreed.

Rep. Kasper: I don't follow.

Rep. Froseth: The committee felt the bill was a more contractor protection bill instead of a consumers protection bill. All these exclusions we discussed in detail in committee and we felt the exclusions were harmful to the consumer. We felt the warranties were not adequate.

Discussion closed.

(went on to discuss another subcommittee)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1437

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2-14-05

Tape Number	Side A	Side B	Meter #
2	x		0-end
Committee Clerk Signature <i>Joey Reuke</i>			

Minutes:

Chairman Keiser: Before we leave this page I would like you to go back and look at the ten year warranty. As I am reading this, on line 22 it says it must be free from any major construction defects due to non compliance with the building standards. In the definition section we talked about what the standards would be and the codes, as I read this if I violate the code after 10 years it doesn't matter. So we are saying that we have to follow this code which is in effect at the time of the warranty, but I as a builder violate that, and nobody catches this and on the 11th year the roof caves in from snow, because it wasn't built to code, that becomes my problem as I read line 22.

Representative Froseth: Exclusion is the last page, I suggested that they list their exclusions in the written contract between both the vendor and vendee, they felt they needed some exclusions with in code, that would cover them from just the

basic problems so if you look at the original bill they eliminated exclusion number one in the original bill, the eliminated loss of damage not reported the vendee or the owner to the vendor within six months after it is discovered. I guess the contractor shouldn't be responsible for material that the owner says if he has some windows of his own that he wants you to use, and the contractor says that he does not like them, but it is the owner's choice, the contractor shouldn't be responsible for warranting that product. Section 5, we are suggesting taking out the words "registered" on line 10, but still would notice by mail, just not registered. We questioned reasonable time, give written notice by mail within 6 months after knowledge, reasonable time would mean a maximum of 30 days or shorter time that may be appropriate under the particular facts or circumstance of the defect notice.

Chairman Keiser: I think Representative Froseth and the sub committee have wrestled with an extremely difficult issue. There is one part of the bill that I really like and maybe the wording is not right, but I like the concept and that is Section 5, where you have to give the contractor reasonable opportunity to correct the problem. We do not currently have that, and that is one of the major things that drove this bill coming to us.

Representative Thorpe: I move to ADOPT amendments on HB 1437.

Representative Boe: SECOND the motion?

Motion carried.

Representative Froseth: I move to **further amend** on **HB 1437**.

Representative Nottestad: **SECOND** to further amend.

Motion carried.

Representative Thorpe: I would further amend.

Representative Kasper: **SECOND** the motion to further amend

Motion failed. **VOTE: 5-YES 9-NO 0-Absent**

Representative Kasper: I would **MOVE** to further amend

Representative Dosch: I **SECOND** the motion to further amend **HB 1437**.

Motions withdrawn.

Representative Ekstrom: I **MOVE** to further amend **HB 1437**.

Representative Kasper: I **SECOND** the motion.

Motion carried.

Representative Kasper: I **MOVE** a **DO NOT PASS AS AMENDED**.

Representative Clark: I **SECOND** the motion.

Motion carried. **VOTE: 8-YES 6-NO 0-Absent**.

Representative Dosch will carry the bill on the floor.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1437

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2-15-05

Tape Number	Side A	Side B	Meter #
1	x		0-7.9
Committee Clerk Signature <i>Jody Banks</i>			

Minutes:

Chairman Keiser: Opened the hearing on HB 1437. All committee members were present. We need to reconsider our actions on HB 1437.

Representative Thorpe: I move to **RECONSIDER** our actions on HB 1437.

Representative Boe: I **SECOND** the motion.

Motion carried. **VOTE: 9-YES 5-NO 0-Absent.**

Representative Froseth: I move **ADOPTION** of amendments.

Representative Ekstrom: **SECOND** the motion to **ADOPT** amendments for HB 1437.

Motion carried.

Representative Ekstrom: I move to further **ADOPT** amendments

Representative Dosch: I **SECOND** the motion to further adopt amendments.

Motion carried.

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House Industry, Business and Labor Committee
Bill/Resolution Number HB 1437
2-15-05

Representative Froseth: I MOVE a DO PASS AS AMENDED.

Representative Clark: I SECOND the DO PASS AS AMENDED motion HB
1437.

Motion carried **VOTE: 12 -YES 0-NO 2-Absent**

Representative Nottestad will **NOW BE** carrying the bill on the floor.

Date: 2-14-05
Roll Call Vote #: 1437

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Adopt Amendments page 2 line 18 change "1-yr" to "3yr"

Motion Made By

Rep. Thorpe

Seconded By

Rep. Boe

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman			Rep. B. Amerman		
N. Johnson-Vice Chairman			Rep. T. Boe		
Rep. D. Clark			Rep. M. Ekstrom		
Rep. D. Dietrich			Rep. E. Thorpe		
Rep. M. Dosch					
Rep. G. Froseth					
Rep. J. Kasper					
Rep. D. Nottestad					
Rep. D. Ruby					
Rep. D. Vigasaa					

Total (Yes) 13 No 1

Absent 0-

Floor Assignment Rep.

If the vote is on an amendment, briefly indicate intent:

Roll Call Vote #: 2 Date: 2-14-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1437

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendments presented by Froseth (voice vote)

Motion Made By Rep. Froseth Seconded By Rep. Nottestad

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman			Rep. B. Amerman		
N. Johnson-Vice Chairman			Rep. T. Boe		
Rep. D. Clark			Rep. M. Ekstrom		
Rep. D. Dietrich			Rep. E. Thorpe		
Rep. M. Dosch					
Rep. G. Froseth					
Rep. J. Kasper					
Rep. D. Nottestad					
Rep. D. Ruby					
Rep. D. Vigasaa					

Total (Yes) 14 No 0

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-14-05
Roll Call Vote #: 3

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1437

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amend exclude 4 & 5

Motion Made By Rep. Thorpe Seconded By Rep. Kasper

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman		X	Rep. B. Amerman	X	
N. Johnson-Vice Chairman		X	Rep. T. Boe		X
Rep. D. Clark	Y		Rep. M. Ekstrom		X
Rep. D. Dietrich		X	Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth		X			
Rep. J. Kasper	X				
Rep. D. Nottestad		X			
Rep. D. Ruby		X			
Rep. D. Vigesaa		X			

Total (Yes) 5 No 9

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-14-05

Roll Call Vote #: 4

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1437

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Further amend (Kasper) as stated by Ekstrom

Motion Made By Rep. Kasper Seconded By Rep. Dosch

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman			Rep. B. Amerman		
N. Johnson-Vice Chairman			Rep. T. Boe		
Rep. D. Clark			Rep. M. Ekstrom		
Rep. D. Dietrich			Rep. E. Thorpe		
Rep. M. Dosch					
Rep. G. Froseth					
Rep. J. Kasper					
Rep. D. Nottestad					
Rep. D. Ruby					
Rep. D. Vigesaa					

with drawn

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Roll Call Vote #: 5 Date: 2-14-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1437

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken further amend (Ekstrom) liability to contractor

Motion Made By Rep. Ekstrom Seconded By Rep. Kasper (Voice Vote)

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman			Rep. B. Amerman		
N. Johnson-Vice Chairman			Rep. T. Boe		
Rep. D. Clark			Rep. M. Ekstrom		
Rep. D. Dietrich			Rep. E. Thorpe		
Rep. M. Dosch					
Rep. G. Froseth					
Rep. J. Kasper					
Rep. D. Nottestad					
Rep. D. Ruby					
Rep. D. Vigasaa					

Total (Yes) 14 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Roll Call Vote #: 6 Date: 2-14-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1437

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass As Amended

Motion Made By Rep. Kasper Seconded By Rep. Clark

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman		X	Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom		X
Rep. D. Dietrich		X	Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth		X			
Rep. J. Kasper	X				
Rep. D. Nottestad		X			
Rep. D. Ruby		X			
Rep. D. Vigasaa	X				

Total (Yes) 8 No 6

Absent 0

Floor Assignment Rep. Dosch

If the vote is on an amendment, briefly indicate intent:

Roll Call Vote #: 7 Date: 2-15-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1437

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Reconsider motions

Motion Made By Rep. Thorpe Seconded By Rep. Boe

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman		X
N. Johnson-Vice Chairman	X		Rep. T. Boe		X
Rep. D. Clark		X	Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch		X			
Rep. G. Froseth	X				
Rep. J. Kasper		X			
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigasaa	X				

Total (Yes) 9 No 5

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1437

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 43-07 of the North Dakota Century Code, relating to notice and time for contractors to repair defects in residential buildings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 43-07 of the North Dakota Century Code is created and enacted as follows:

Warranty repairs - Required notice. Before undertaking any repair or instituting any action for breach of warranty in the construction of a one- or two-family dwelling, the purchaser or owner shall give the contractor written notice by mail within six months after knowledge of the defect, advising the contractor of any defect and giving the contractor a reasonable time to comply with this section. Within a reasonable time after receiving the notice, the contractor shall inspect the defect and provide a response to the purchaser or owner, and, if appropriate, remedy the defect within a reasonable time thereafter. A "reasonable time" for the purposes of this section means within thirty days after the notice is mailed, or any shorter period of time as may be appropriate under the circumstances."

Renumber accordingly

Date: 2-15-05
Roll Call Vote #: 8

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1437

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amend as presented by Froseth 202

Motion Made By Rep Froseth Seconded By Rep Ekstrom

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	A		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	A				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigasaa	X				

Total (Yes) 12 No 0

Absent (2) Kasper & Dietrich

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Roll Call Vote #: 9 Date: 2-15-05

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1437

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken further adopt amendments by Ekstrom

Motion Made By Rep. Ekstrom Seconded By Rep. Dosch

voice
vote

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman			Rep. B. Amerman		
N. Johnson-Vice Chairman			Rep. T. Boe		
Rep. D. Clark			Rep. M. Ekstrom		
Rep. D. Dietrich			Rep. E. Thorpe		
Rep. M. Dosch					
Rep. G. Froseth					
Rep. J. Kasper					
Rep. D. Nottestad					
Rep. D. Ruby					
Rep. D. Vigasaa					

Total (Yes) 12 No 0

Absent 2 Kasper & Dietrich

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

February 15, 2005

House Amendments to HB 1437 - Industry, Business and Labor Committee 02/16/2005

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 43-07 of the North Dakota Century Code, relating to notice and time for contractors to repair defects in residential buildings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 43-07 of the North Dakota Century Code is created and enacted as follows:

Warranty repairs - Required notice. Before undertaking any repair, other than emergency repair, or instituting any action for breach of warranty in the construction of a one-family or two-family dwelling, the purchaser or owner shall give the contractor written notice by mail, within six months after knowledge of the defect, advising the contractor of any defect and giving the contractor a reasonable time to comply with this section. Within a reasonable time after receiving the notice, the contractor shall inspect the defect and provide a response to the purchaser or owner, and, if appropriate, remedy the defect within a reasonable time thereafter. For the purposes of this section, "reasonable time" means within thirty days after the notice is mailed or any shorter period of time as may be appropriate under the circumstances."

Renumber accordingly

Date: 2-15-05
Roll Call Vote #: 10

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1437

House INDUSTRY, BUSINESS AND LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50352.0203 .0300

Action Taken Do Pass As Amended

Motion Made By Rep. Froseth Seconded By Rep. Clark

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	✓	
Rep. D. Dietrich	A		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	A				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigasaa	X				

Total (Yes) 12 No 0

Absent (2) Kasper & Dietrich

Floor Assignment Rep. Nottestad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1437: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1437 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 43-07 of the North Dakota Century Code, relating to notice and time for contractors to repair defects in residential buildings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 43-07 of the North Dakota Century Code is created and enacted as follows:

Warranty repairs - Required notice. Before undertaking any repair, other than emergency repair, or instituting any action for breach of warranty in the construction of a one-family or two-family dwelling, the purchaser or owner shall give the contractor written notice by mail, within six months after knowledge of the defect, advising the contractor of any defect and giving the contractor a reasonable time to comply with this section. Within a reasonable time after receiving the notice, the contractor shall inspect the defect and provide a response to the purchaser or owner, and, if appropriate, remedy the defect within a reasonable time thereafter. For the purposes of this section, "reasonable time" means within thirty days after the notice is mailed or any shorter period of time as may be appropriate under the circumstances."

Renumber accordingly

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1437

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1437

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 3-15-05

Tape Number	Side A	Side B	Meter #
1	xxx		3555-end
1		xxx	0-500
Committee Clerk Signature <i>Lisa Van Berkum</i>			

Minutes: **Chairman Mutch** opened the hearing on HB 1437. All Senators were present.

HB 1437 relates to notice and time for contractors to repair defects in residential buildings.

Rep. Koppelman introduced the bill. See written testimony.

Rep. Koppelman: This bill was introduced at the request of the Home Builders Association.

Essentially, what it was, was a home owners warranty. Right now in law, there is no specified warranty for homes. There is an implied warranty, with general statute that deals with product warranty. That has been held to apply to homes. The House IBL committee amended the bill down to one provision. But I am pleased to say that the provision that remains is the most important. Basically, what the bill does is if you hire a builder to build the house and you have a problem with that builders work. You have to first call you the builder and tell them about the problem. You have to give that builder the opportunity to repair whatever the problem is, before you escalate it to another level. I think this is a good bill.

Senator Klein: The six months after knowledge of the defect, so if I am in the home, tell me about the timing factor.

Rep. Koppelman: I think the issue is, you have to come up with some kind of a time frame, otherwise it's open-ended.

Senator Heitkamp: You wouldn't read this so that it would limit their ability to go back to the home builder if notice wasn't given, it's just a matter of notifying them first?

Rep. Koppelman: I don't think it limits a consumer's ability to seek grievance somewhere else, it just gives them a place to start.

Chairman Mutch: The builder would have to enter into an agreement with the customer to give that person a warranty guaranty.

Rep. Koppelman: What this bill is referring to the implied warranty currently under law.

Dorreen Reidman, North Dakota Home Builder's Assoc., spoke in support of the bill. See attached testimony.

Senator Heitkamp: Why didn't he pay it?

Dorreen: He didn't want to get a bad name.

Chairman Mutch: Does this spill over into additions too?

Dorreen: Yes. Improvements as well.

Senator Nething: Basically, this becomes a six month statute of limitations. How do we arrive at the six months?

Dorreen: That is basically what's been used in the legislation in other states.

Senator Espegard: It is six months after you find out the problem, it might be a year later that you discover the problem, then you have six months.

Page 3

Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1437

Hearing Date 3-15-05

Senator Heitkamp: It's after the knowledge is discovered, you still have to give notice to the contractor?

Dorreen: Correct.

Senator Heitkamp: I would encourage your organization if this passes, because I don't think people are going to know and you need to put it in the contracts or else they won't know.

Dorreen: That's true.

Bonnie Staiger, American Institute of Architects, stated their support for the record.

The hearing was closed. No Action was taken.

The committee met on 3-23-05 to act on this bill.

Senator Klein moved to adopt the amendments. Senator Heitkamp seconded.

Roll Call Vote: 7 yes. 0 no. 0 absent.

Senator Espegard moved a DO PASS AS AMENDED. Senator Heitkamp seconded.

Roll Call Vote: 6 yes. 1 no. 0 absent.

Carrier: Senator Heitkamp

PROPOSED AMENDMENTS TO HB 1437

Page 1, Line 9, after the comma insert "or an improvement to a dwelling valuing \$2,000 or more,"

Page 1, Line 14, after "thirty" insert "business"

Page 1, after line 16 insert:

"Notification Upon Sale. The contractor shall give the purchaser or owner written notice of the requirements of this section at the time of closing or project completion, in the case of an improvement."

Renumber accordingly

Date: 3-23-05

Roll Call Vote #:

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1437

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendments

Motion Made By Klein Seconded By Heitkamp

[illegible]

Total (Yes) 7 No 0

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 3-23-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1437

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DPAM

Motion Made By Espgaard Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield		X
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espgaard	X				
Senator Nething	X				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Heitkamp

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1437, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1437 was placed on the Sixth order on the calendar.

Page 1, line 9, after the comma insert "or an improvement with a value exceeding two thousand dollars to a dwelling,"

Page 1, line 14, after the period insert "The contractor shall provide the purchaser or owner written notice of the requirements of this section at the time of closing for the property or, in the case of an improvement, at the time of completion of the improvement." and after "thirty" insert "business"

Renumber accordingly

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

CONFERENCE COMMITTEE

HB 1437

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1437

House Industry, Business and Labor Committee

☒ Conference Committee

Hearing Date 4-8-05

Tape Number	Side A	Side B	Meter #
1	x		0-14.5
Committee Clerk Signature <i>Jody Runkle</i>			

Minutes:

Chairman Nottestad: Opened the hearing on conference committee HB 1437

Chairman Nottestad, Representative Kasper, Representative Amerman, Chairman Espegard, Senator Mutch, Senator Heitkamp were present.

Chairman Espegard: This is a bill that has to do with warranties, we looked at this quite a while ago, we had a question in committee, as to, does it apply to home improvement, as well as new homes, and if so should there be a minimum amount. we talked a lot about notification of home owners, because in some cases they don't know about the warranty and so forth. And the other changes it would be a 30 business day notice, instead of a 30 day notice.

Chairman Nottestad: On the \$2,000.00, does that coordinate with building permits, why was that particular figure picked?

Chairman Espegard: I don't know what all the cities building permits are, but, we just thought that is what a lot of small jobs be about \$2,000.00 might be.

Representative Kasper: To be clear if we use my new home as an example, because we have had problems with my contractor, I have a number of unsolved issue with my contractor, some of them by themselves would not add up to \$2,000.00 but if you look at them in the aggregate, it would be over \$2,000.00, would this apply on this \$2,000.00 floor to just the improvements or would it include a new house?

Chairman Espgaard: We talked in committee that a new house is a new house, that is warranted. but we are talking about here, is a repair job.

Senator Heitkamp: Anybody would read that would see that the improvement would not be addition to a new contract on a new house, it would be if somebody would come and put new doors or windows in, what they are trying to do, is there is a lot of local guys that you can get to come and do this type of work, if you don't burden them with to much stuff and everybody knows what your getting when you hire them, I just think there should just be that dollar amount that stops it from becoming something bigger.

Chairman Nottestad: So in your estimation if I built a home, and I decided that I wanted a deck put on afterwards and the same contractor did it, that would be part of the original contract?

Chairman Heitkamp: There is a notification here so that the person knows that the time is running out.

Doreen Reidmann: The \$2,000.00 actually correlates with the amount that a contractor needs to obtain a license for any jobs. This bill really is clear, we have looked at some other laws in other states and we added that in there, to clarify.

Page 3
House Industry, Business and Labor Committee
Bill/Resolution Number HB 1437
Hearing Date 4-8-05

Representative Nottestad: The way it is worded here I think would take care of it I truly do, that is my opinion. All this is and correct me if I'm wrong, is providing notice to the home owner of both, that is all this bill does and puts a time line on it.

Representative Amerman: I would move to **ACCEDE** to the **SENATE AMENDMENTS**.

Senator Heitkamp: I **SECOND** the **MOTION** on HB 1437.

Motion carried. **VOTE: 6-YES 0-NO 0-ABSENT.**

Representative Nottestad will carry the bill to the floor.

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1437 (, as (re)engrossed): Date: 4-8-05

Your Conference Committee IBL

For the Senate:

For the House:

	YES / NO		YES / NO
Chairman Espgaard P	Y	Chairman Nottstad P	Y
Senator Mutch P	Y	Rep. Kasper P	Y
Senator Heitkamp P	Y	Rep. Amernan P	Y

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1345 --

✓ and place 1437 on the Seventh order.

____, adopt (further) amendments as follows, and place _____ on the Seventh order:

____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1437 was placed on the Seventh order of business on the calendar.

DATE: 4-8-05

CARRIER: Representative Nottstad.

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Representative Amernan.

SECONDED BY: Senator Heitkamp.

VOTE COUNT 6 YES 0 NO 0 ABSENT

Revised 4/1/05

*Amernan
Heitkamp
2nd*

REPORT OF CONFERENCE COMMITTEE

HB 1437, as engrossed: Your conference committee (Sens. Espegard, Mutch, Heitkamp and Reps. Nottestad, Kasper, Amerman) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1345 and place HB 1437 on the Seventh order.

Engrossed HB 1437 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

HB 1437

2-1405

PROPOSED AMENDMENTS TO HOUSE BILL 1437

Page 1, Line 6, following the word "guidelines" insert for professional builders & remodelers, 2nd edition, the state building code, the state electrical code, and the state plumbing code. Building standards applicable are those in effect on the warranty date.

Page 1, Line 7, following the word "new" insert one- or two-family residential

Page 2, Line 18, following the word "completed," insert or in a contract for a home improvement,

Page 2, Line 18, following the word "vendor" insert or home improvement contractor

Page 2, Line 18, following the word "vendee" insert or owner

Page 2, Line 19, following the word "dwelling" insert or home improvement

Page 2, delete Lines 22-25

Page 2, Line 26, following the word "dwelling" insert or home improvement

Page 2, Line 29, following the word "section" insert shall

Page 2, Line 29, delete the word "passing" and insert transfer

Page 2, Line 30, delete the word "to" and insert by

Page 2, Line 30, following the word "vendee" insert to a subsequent owner during the warranty period.

Page 3, delete Lines 1-21, and insert 3. Products or materials installed which are covered by an implied or written warranty maintain those manufacturers' warranties. 4. The vendor or home improvement contractor shall provide written notice to the vendee or owner of the warranties provided under this section. 5. This Act provides the exclusive warranty between the vendee or owner and the vendor or home improvement contractor relative to home construction and home improvements and no other provisions of law relative to warranties shall apply.

Page 3, delete Lines 25-27, renumber accordingly

Page 5, delete Lines 1-5 and Lines 8-31

Page 5, Line 6, delete the words ~~"improvement contractor and an owner, any of",~~ and capitalize the word "The"

Page 5, Line 7, delete the word "a" and after the word "written" insert the words agreement between the parties. and delete the words ~~"instrument, printed in boldface"~~

Page 6, Line 2, after the word "vendor" insert or home improvement contractor

Page 6, Line 3, after the word "vendor" insert or home improvement contractor

Page 6, Line 4, after the word "vendor" insert or home improvement contractor

Page 6, Line 4, after the word "chapter." insert A "reasonable time" for the purposes of this section shall mean a maximum of thirty days, or such shorter period of time as may be appropriate under the particular facts and circumstances of the defect noticed. Following notification by the vendee or owner, the vendor or home improvement contractor shall with thirty days, or such shorter period of time as may be deemed reasonable under the circumstances, inspect the defect and provide a response to the vendee or owner, and, if appropriate, shall remedy the defect within a reasonable time thereafter.

Page 6, delete Lines 5-31

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1437

Page 1, line 6, after "guidelines" insert "for professional builders & remodelers, 2nd edition"



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NAHB
NATIONAL ASSOCIATION
OF HOME BUILDERS

Testimony on House Bill 1437

House Industry, Business & Labor Committee

February 7, 2005

Doreen Riedman, Executive Officer
North Dakota Association of Builders

Chairman Keiser and members of the House Industry, Business & Labor Committee, the North Dakota Association of Builders (NDAB) supports House Bill 1437, relating to the establishment of a home warranty law.

The NDAB represents 1,585 members statewide, and is affiliated with five local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, and Minot; and is part of a larger federation, the National Association of Home Builders (NAHB), which has over 215,000 members.

Our association is recommending a home warranty law to cover new residential construction and home improvements. We believe it's important to have a defined home warranty law to **provide certainty to both homeowners and builders.**

CURRENT LAW

Currently, North Dakota has an *implied warranty law* (NDCC 41-02-31 and 41-02-32) that is very vague and doesn't specifically address homes. It is part of the Uniform Commercial Code (UCC) covering the sale of goods, but it does not cover the labor involved in the building of a home. If expectations are unmet and if conflicts arise, homeowners and builders are left to settle their differences through legal channels and in the courts. This can result in increased expenses and distress for both parties.

SETS LIABILITY LIMITS FOR BUILDERS

By providing a defined statutory warranty to homeowners, builders will also have limits set on their liability. General liability insurance for builders has become inaccessible in some cases, and in most cases has increased in cost by 300-1000 percent. There are only a couple insurers who actually provide general

liability insurance for builders in North Dakota today. **By having liability and risk limitations in place in our state law, we believe that insurers will find North Dakota a more favorable place to do business.** In working with Commissioner Poolman and the ND Insurance Department on this legislation along the way, they also believe this will attract more competition in the insurance marketplace, improving the business climate in our state.

BENEFITS TO HOMEOWNERS

This home warranty law would also offer great benefits for homeowners:

- Confidence in the quality and workmanship of their new home or home improvement
- A defined warranty that spells out exactly what is covered
- Peace of mind, knowing that their new home comes with a warranty

OTHER STATES HAVING HOME WARRANTY LAWS

There are ten other states that have statutory home warranty laws, including neighboring Minnesota, whose law has been on the books since 1977. Many of our builders in the Red River Valley have built homes in Minnesota and have experience with their warranty law. We believe this proposed legislation, modeled after Minnesota's law, will provide consistency for those builders on the border and will be a very workable home warranty law for our state as well.

OVERVIEW OF THE HOME WARRANTY LAW

In this proposed home warranty law, builders will provide warranties on workmanship, systems, and major construction defects:

- One-year warranty covering faulty workmanship and defective materials
- Two-year warranty on faulty installation of plumbing, electrical, heating and cooling systems
- Ten-year warranty covering major construction defects
- Product warranties remain in place as specified by manufacturers
- Warranties survive the passage of title, so if the home is sold during the warranty period it transfers to the next homeowner

Section 1 of the bill covers the definitions of the terms used throughout the legislation. The first definition of "building standards" refers to the *Residential*

Construction Performance Guidelines book, a comprehensive measurement of quality workmanship used in the home building industry. It defines what constitutes acceptable construction performance, and is recognized as objective and qualified. This goes well beyond the State Building Code, which provides for the safety and habitability of a home, and not actual workmanship.

In their review of this legislation, the Attorney General's office made one recommendation, and that is to include the full title of this reference book in the definition, which is *Residential Construction Performance Guidelines for Professional Builders & Remodelers, 2nd Edition*.

Section 2 of the bill defines the warranties on new construction and home improvements. Section 3 spells out the exclusions, and Section 4 provides for waivers and modifications to the warranty if agreed upon by both the homeowner and builder.

Section 5 of the bill provides for the notification process of any defect, and allows builders the opportunity to repair problems that may arise.

Section 6 deals with remedies if a homeowner has a cause of action against a builder for breach of warranty.

Section 7 discusses other warranties, and states that the warranties in Section 2 of this bill are the exclusive remedies available in the event of a breach of warranty.

Section 8 covers limitations of the home warranty law.

We respectfully ask this committee to favorably consider this legislation that is a win-win proposition for both homeowners and builders. Thank you.

North Dakota's Current Implied Warranty Law

41-02-31. (2-314) Implied warranty - Merchantability - Usage of trade.

1. Unless excluded or modified (section 41-02-33), a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind. Under this section the serving for value of food or drink to be consumed either on the premises or elsewhere is a sale.

2. Goods to be merchantable must be at least such as:

- a. Pass without objection in the trade under the contract description;
- b. In the case of fungible goods, are of fair average quality within the description;
- c. Are fit for the ordinary purposes for which such goods are used;
- d. Run, within the variations permitted by the agreement, of even kind, quality and quantity within each unit and among all units involved;
- e. Are adequately contained, packaged, and labeled as the agreement may require; and
- f. Conform to the promises or affirmations of fact made on the container or label if any.

3. Unless excluded or modified (section 41-02-33), other implied warranties may arise from course of dealing or usage of trade.

41-02-32. (2-315) Implied warranty - Fitness for particular purpose.

If the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there is unless excluded or modified under the next section an implied warranty that the goods shall be fit for such purpose.

Warranty Periods In The Ten Other States Having Statutory Home Warranty Laws

STATE	WORKMANSHIP	SYSTEMS	MAJOR CONSTRUCTION DEFECTS	NOTES
Connecticut	1 year	1 year	1 year	
Indiana	2 years	2 years	10 years	4 year warranty period on roof and roof systems
Louisiana	1 year	2 years	5 years	Recently lowered the major construction defects warranty period from 7 years to 5 years
Maryland	1 year	2 years	5 years	
Minnesota	1 year	2 years	10 years	Law has been in place since 1977
Mississippi	1 year	--	6 years	
New Jersey	1 year	2 years	10 years	Law has been in place since 1977
New York	1 year	2 years	6 years	
Texas	1 year	2 years	10 years	
Virginia	1 year	--	5 years	
Proposed Law for North Dakota	1 year	2 years	10 years	



Phone 701 258-7815
Fax 701 250-0040

NODAK CONSTRUCTION, INC

1805 Harbor Drive
Bismarck, ND 58504

February 2, 2005

Dear Chairman George Keiser and the House Industry, Business & Labor Committee:

As a builder who has been in business for 20 years, I strongly support House Bill 1437, a bill that will define the warranty period for newly constructed homes in North Dakota. By having such a law, builders and homebuyers will know exactly what is covered by a warranty in a new home.

Many builders have contracts that specify the warranty periods on homes, but this law will clarify and standardize home warranties across the state. Homebuyers deserve to know exactly what they are getting for their money, and the builder deserves to know exactly what he is liable for.

With this law, insurers will know the risk level associated with builders, unlike today's law that is very vague. Insurers will be more apt to insure North Dakota builders with this law in place. Having more insurance companies and competition in our state will lead to better pricing and greater availability of builders' general liability insurance.

Please support House Bill 1437, and make North Dakota a better business environment for builders and a better place for consumers to buy homes. Thank you.

Sincerely,

Kevin Turnbow, President
Nodak Construction, Inc.
Bismarck, ND



Home Builders Association of Fargo-Moorhead

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February 3, 2005

House Industry, Business & Labor Committee

Chairman George Keiser

North Dakota State Capitol

600 East Boulevard

Bismarck, ND 58505-0360

Dear Chairman Keiser and committee members,

The Home Builders Association of Fargo-Moorhead, representing 746 building industry member companies, supports House Bill 1437. This bill will define the warranty period for newly constructed homes in North Dakota.

Many builders have contracts specifying warranty periods on homes, but this law will clarify and standardize home warranties across the state. Homebuyers deserve to know exactly what they are getting for their money, and the builder deserves to know exactly what he or she is liable for.

The current implied warranty law is very vague. If passed, this legislation will more clearly define liability and risk associated with builders; and insurance companies will be more likely to cover North Dakota builders. Having more insurance companies and competition in our state will lead to better pricing and greater availability of builders' general liability insurance. In turn, this will help builders keep costs of new housing down for North Dakota home buyers.

This bill benefits both consumers and the building industry. Please support House Bill 1437, and make North Dakota a better business environment for builders and a better place for consumers to buy homes. Thank you.

Sincerely,

Dave Anderson, Dave Anderson Construction
HBA of F-M President



LETTER IN SUPPORT OF HOUSE BILL 1437 HOME WARRANTY LAW

February 3, 2005

Chairman George Keiser and the House Industry, Business & Labor Committee:

The Bismarck Mandan Home Builders Association represents over 300 local member businesses that strongly support House Bill 1437, a bill that will define the warranty period for newly constructed homes in North Dakota. By having such a law, builders and homebuyers will know exactly what is covered by a warranty in a new home.

Many builders have contracts that specify the warranty periods on homes, but this law will clarify and standardize home warranties across the state. Homebuyers deserve to know exactly what they are getting for their money, and the builder deserves to know exactly what he is liable for.

With this law, insurers will know the risk level associated with builders, unlike today's law that is very vague. Insurers will be more apt to insure North Dakota builders with this law in place. Having more insurance companies and competition in our state will lead to better pricing and greater availability of builders' general liability insurance.

Please support House Bill 1437, and make North Dakota a better business environment for builders and a better place for consumers to buy homes. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Eldon J Krein".

Eldon J Krein
Executive Director
Bismarck Mandan Home Builders Association



1424 West Century Avenue, Ste 207 * Bismarck, ND 58503 * 701-222-2400 * fax 701-250-9730





MINOT ASSOCIATION OF BUILDERS

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Century 21-Action Realtors

EXECUTIVE OFFICER

Vicky Flagstad

February 4, 2005

Chairman George Keiser and the House Industry, Business & Labor Committee:

The Minot Association of Builders has been actively promoting the building industry and their associated contractors for 40 years. We strongly support House Bill 1437, a bill that will define the warranty period for newly constructed homes in North Dakota. Having such a law will outline for builders and homebuyers exactly what is covered by a warranty on a new home.

Many builders have contracts that specify the warranty periods on homes, but this law will clarify and standardize home warranties across the state. Homebuyers deserve to know exactly what they are getting for their money and the builder deserves to know exactly what he is liable for.

With this law, insurers will know the risk level associated with builders, unlike today's law that is very vague. Insurers will be more apt to insure North Dakota builders with this law in place. Having more insurance companies and competition in our state will lead to better pricing and greater availability of builders' general liability insurance.

Please support House Bill 1437, and make North Dakota a better business environment for builders and a better place for consumers to buy homes.

Thank you,

David Lebrun

Sincerely,

David Lebrun
President
Minot Association of Builders

Tel & Fax: 701-852-0496

E-mail: maob@ndak.net





AFFILIATED WITH
NATIONAL ASSOCIATION OF HOME BUILDERS
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LETTER IN SUPPORT OF HOUSE BILL 1437 HOME WARRANTY LAW

February 3, 2005

Chairman George Keiser and the House Industry, Business & Labor Committee

As 2005 President of the Forx Builders Association, I strongly support House Bill 1437. This is a bill that will define the warranty period for newly constructed homes in North Dakota.

This law would standardize home warranties across the state of North Dakota. Builders would know exactly what they are liable for and homebuyers would know exactly what they are getting for their money.

Insurers will know the risk level associated with builders unlike today's law that is very, very vague. Therefore they will more likely insure North Dakota builders with this law in place. This will open the door for more insurance companies to offer insurance to builders leading to more competition and better pricing and greater availability of builder's general liability insurance.

Please support House Bill 1437 to make North Dakota a better business environment for builders and a better place for consumers to buy homes. Thank you.

Sincerely,

Barry Flath
President

HB1437

Contact Association for copy

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Administrative Assistant



Testimony on House Bill 1437

House Industry, Business & Labor Committee

March 15, 2005

Doreen Riedman, Executive Officer
North Dakota Association of Builders

Chairman Mutch and members of the Senate Industry, Business & Labor Committee, the North Dakota Association of Builders (NDAB) supports Engrossed House Bill 1437, relating to the notice and time for contractors to repair defects in residential buildings.

The NDAB represents over 1,600 members statewide, and is affiliated with five local builders associations in Bismarck-Mandan, Dickinson, Fargo-Moorhead, Grand Forks, and Minot; and is part of a larger federation, the National Association of Home Builders (NAHB), which has over 215,000 members.

This "notice and opportunity to repair" legislation requires homeowners to notify builders of alleged construction defects before commencing litigation. The process gives builders the opportunity to inspect and repair the defects, and spells out a clear and predictable way to solve problems.

The legislation's intent is to create an alternative method of resolving legitimate construction disputes, thereby reducing the number of unnecessary and costly lawsuits. It also protects the rights of homeowners by preserving their right to sue.

This approach assures that homeowner complaints are resolved quickly and satisfactorily. It also prevents builders from being subject to protracted and excessive lawsuits that hamper swift resolution of homeowners' concerns.

We respectfully ask this committee to support this legislation that has already been passed in 24 other states. (A map is attached for your review. Please note: Ohio also passed this legislation in 2004.)

EXCLUSIVE MEMBERS-ONLY CONTENT EXCLUSIVE MEMBERS-ONLY CONTENT EXCLUSIVE MEMBERS-ONLY CONTENT EXCLUSIVE MEMBERS-



WWW.NAHB.ORG

NATIONAL ASSOCIATION OF HOME BUILDERS

23 STATES HAVE NOTICE AND OPPORTUNITY TO REPAIR LAWSNormal View☐ States with NOR laws☐ States that considered NOR legislation in 2004

For more information about this item, please contact J. Samuel Leyvas at 800-368-5242 x8326 or via e-mail at sleyvas@nahb.com.

**PROPOSED AMENDMENTS
TO ENGROSSED HOUSE BILL 1437**

Page 1, Line 9, following the word "dwelling," add or an improvement to a dwelling.

Page 1, Line 14, following the word "thirty" add business

**NOTICE AND OPPORTUNITY TO REPAIR LEGISLATION - HB 1437
WITH COMMENTS FROM THE
NORTH DAKOTA ASSOCIATION OF BUILDERS**

11 STATES DO NOT REQUIRE A NOTICE TO CONSUMERS:

Arizona	California
Colorado	Florida
Idaho	Michigan
Nevada	South Carolina
Tennessee	Texas
Virginia	

We do not support the requirement of a written notice to consumers. The reason this legislation is being introduced is to put in statute and have it cover all contractors and homeowners in the state. The concern here is that not all contractors, especially those in rural areas, work with contracts.

ALL STATES (24) INCLUDE DWELLINGS AND HOME IMPROVEMENTS:

Alaska	Arizona
California	Colorado
Florida	Georgia
Hawaii	Idaho
Indiana	Kansas
Kentucky	Louisiana
Michigan	Mississippi
Montana	Nevada
Ohio	Oregon
South Carolina	Tennessee
Texas	Virginia
Washington	West Virginia
Minnesota (proposed legislation)	
Missouri (proposed legislation)	

We support the inclusion of "improvements to dwellings" in this legislation.

STATES WITH MINIMUM AMOUNT OF DEFECT:

West Virginia (\$5,000)
Minnesota (\$7,500 - proposed legislation)

NDAB does not support a minimum amount for the defect in this legislation. It would be difficult for the consumer to estimate the amount of the defect, and could lead to further problems. The original contractor should have the benefit of inspecting the defect and making every effort to make the necessary repairs regardless of the cost of the defect. (Ex. A minor problem that could be repaired easily by the original contractor could be farmed out to another contractor because it was a low dollar amount, and the original contractor could still be held accountable for an issue he didn't have the chance to handle.)

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