

SB800: General Summary

“Right to Repair”

1. What is SB800?

Senate Bill 800 commonly known as the “Right to Repair, became effective January 1, 2003 and establishes a mandatory process prior to the filing of certain types of construction defect claims. The bill, codified into law as Title 7, Part 2 of Division 2 of the California Civil Code commencing with Section 895, applies whenever there are defects alleged by a Homeowner in new residential construction, subject to standards. The legislative intent of this law is to afford both homeowners and homebuilders the opportunity for quick and fair resolution of claims.

2. Who is covered by the bill?

The bill provides that any construction defect action against a builder, subcontractor, product manufacturer, or design professional groups will be governed by the standards set forth in SB800 in new home construction.

3. What is a “defect” under SB800?

This law defines construction defects according to standards of how a home and its components should function. These functional standards have different time limitations from the completion of the home to bring a claim for defect depending on the category. If the homeowner notifies the builder of a possible defect after the categorical imposed statute of limitation the builder has an absolute defense and no duty to repair.

4. What must be done before a claim is filed?

The statutory process outlined by SB800 must be exhausted prior to the filing of a claim. A Homeowner initiates the process by first submitting a written request to Builder’s designated agent.

5. What is the timetable for the claims procedure?

Under this law, if the homeowner notifies the builder in writing of a potential defect the builder has an obligation to respond in accordance with the following timetable.

Initial inspection – within 14 days after acknowledging the claim.

Second inspection (if deemed by the builder to be necessary) – written notice to homeowner within three business days of initial inspection and complete second inspection within 40 days of the initial inspection.

Builder notice to repair – within 30 days of the final inspection.

Homeowner response – within 30 days of builder notice. (NOTE: If the homeowner requests alternative contractors the builder is entitled to an extension)

Commencement of repair – within 14 days of the final selection of a contractor.

Completion of repair – the statute requires the builder to work in a diligent manner and attempt to complete the repair within 120 days.

6. What happens if the homeowner does not follow SB800?

If a Homeowner does not file a written claim with Builder in advance of filing a petition, SB800 provides for a legal bar to the action and a court would have no authority to hear the case. The case would be dismissed though it could be re-opened at a later time, after proper completion of the SB800 process.

7. What defenses are available under SB800?

The bill sets forth certain positive guards available to the Builder for: (a) unforeseen acts of nature in excess of the design criteria anticipated by the applicable building codes; (b) Homeowner's unreasonable failure to minimize or prevent damages; (c) Homeowner's, or his/her agent's or employee's, failure to follow recommended or commonly accepted maintenance obligations; (d) defects caused by alterations, ordinary wear and tear, misuse, abuse, or neglect; (e) defects barred by the statute of limitations; (f) defects subject to a valid release; and (g) the extent that Builder's repair was successful in correcting the defects.

8. What happens after the SB800 process is completed?

If the Builder has not strictly adhered to the process, or if the repairs are not adequate, a Homeowner may thereafter initiate legal proceedings pursuant to their purchase, project, and warranty documents (i.e., arbitration).

9. How are subsequently discovered defects handled?

All defects discovered after the process is completed would require the initiation of a new SB800 procedure and the Builder is not responsible for repairs of defects, which it had no notice of or opportunity to repair. If the statute of limitations has already run when the defect is discovered, the process cannot commence and no claim may be brought. If the process is initiated prior to the running of the statute, the statute will be extended to allow Homeowner and Builder to complete the process.

10. Are the SB800 proceedings admissible in proceedings?

If a legal action to enforce the bill's standards is initiated by a Homeowner, the fact that a repair effort was made may be introduced in that proceeding, and evidence of the parties' conduct during the repair process may be introduced.

11. Is a Builder released after completing repairs?

A Builder is *not* released after completing repairs. The bill presumes that a Builder warrants completely, in addition to any express warranties on the original construction, that the repairs will be reasonably adequate to restore the structure to the condition intended by its designers, and that the home will be reasonably habitable by its occupants.

12. What effect does SB800 have upon warranty obligations?

SB800 requires Builders to provide homeowners with a minimum one-year express warranty covering the "fit and finish" of cabinets, mirrors, flooring, interior and exterior walls, countertops, paint finishes and trim. The bill also permits builders to exceed the warranty standards of the bill and provide homeowners with other more extensive warranties, subject to Builder choice.

13. Does SB800 apply to subsequent purchasers?

SB800 claimants include the owners, whether original or subsequent, of a single-family home or attached dwelling and homeowners association. All claims must be brought within the applicable statute of limitations.

NOTE: The above is a brief summary of SB 800. The full text of Civil Code section 895 et.seq.can be found at www.leginfo.ca.gov. This summary does not reflect any changes, amendments or repeals to this code after December 1, 2006.