

House Amendments to Senate Bill No. 2638

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

8 **SECTION 1.** Section 83-58-5, Mississippi Code of 1972, is
9 amended as follows:

10 83-58-5. (1) Subject to the exclusions provided in this
11 section, every builder warrants the following to the owner:

12 (a) One (1) year following the warranty commencement
13 date, the home will be free from any defect due to noncompliance
14 with the building standards.

15 (b) Six (6) years following the warranty commencement
16 date, the home will be free from major structural defects due to
17 noncompliance with the building standards.

18 (2) Unless the parties otherwise agree in writing, the
19 builder's warranty shall exclude the following items:

20 (a) Defects in outbuildings including detached garages
21 and detached carports, except outbuildings which contain the
22 plumbing, electrical, heating, cooling or ventilation systems
23 serving the home; swimming pools and other recreational
24 facilities; driveways; walkways; patios; boundary walls; retaining
25 walls; bulkheads; fences; landscaping, including sodding, seeding,
26 shrubs, trees, and planting; off-site improvements including
27 streets, roads, drainage and utilities or any other improvements
28 not a part of the home itself.

29 (b) Damage to real property which is not part of the
30 home covered by the warranty and which is not included in the
31 purchase price of the home.

32 (c) Any damage to the extent it is caused or made worse
33 by any of the following:

34 (i) Negligence, improper maintenance or improper
35 operation by anyone other than the builder or any employee, agent
36 or subcontractor of the builder.

37 (ii) Failure by anyone other than the builder or
38 any employee, agent or subcontractor of the builder to comply with
39 the warranty requirements of manufacturers of appliances,
40 equipment or fixtures.

41 * * *

42 (iii) Any change, alteration or addition made to
43 the home by anyone after the initial occupancy by the owner,
44 except any change, alteration or addition performed by the
45 builder, or any employee, agent, or subcontractor of the builder.

46 (iv) Dampness, condensation or other damage due to
47 the failure of the owner to maintain adequate ventilation or
48 drainage.

49 (d) Any loss or damage which the owner has not taken
50 timely action to minimize.

51 (e) Any defect in, or any defect caused by, materials
52 or work supplied by anyone other than the builder, or any
53 employee, agent or subcontractor of the builder.

54 (f) Normal wear and tear or normal deterioration.

55 (g) Loss or damage which does not constitute a defect
56 in the construction of the home by the builder * * *.

57 (h) Loss or damage resulting from war, accident, riot
58 and civil commotion, water escape, falling objects, aircraft,
59 vehicles, acts of God, lightning, windstorm, hail, flood, mud
60 slide, earthquake, volcanic eruption, wind driven water and
61 changes in the level of the underground water table which are not
62 reasonably foreseeable.

63 (i) Insect damage and rotting of any kind.

64 (j) Mold or mold damage, except in cases where the
65 builder's negligence was the proximate cause of the mold or mold
66 damage.

67 (k) Any condition which does not result in actual
68 physical damage to the home.

69 (l) Failure of the builder to complete construction of
70 the home.

71 (m) Any defect not reported in writing by registered or
72 certified mail to the builder or insurance company, as
73 appropriate, prior to the expiration of the period of coverage of
74 that defect plus thirty (30) days.

75 (n) Consequential damages.

76 (o) Any loss or damage to a home caused by soil
77 conditions or soil movement if the home is constructed on land
78 owned by the initial purchaser and the builder obtains a written
79 waiver from the initial purchaser for any loss or damage caused by
80 soil conditions or soil movement.

81 (p) Any defect in an electrical, plumbing, heating, air
82 conditioning or similar fixture not manufactured by the builder
83 for which the manufacturer provides a warranty regardless of
84 duration.

85 (3) The provisions of this section establish minimum
86 required warranties and shall not be waived by the owner or
87 reduced by the builder, provided the home is a single family
88 dwelling to be occupied by an owner as his home.

89 **SECTION 2.** Section 83-58-7, Mississippi Code of 1972, is
90 amended as follows:

91 83-58-7. Before undertaking any repair himself or
92 instituting any action for breach of warranty, the owner shall
93 give the builder written notice, within ninety (90) days after
94 knowledge of the defect, by registered or certified mail, advising
95 him of the defects and giving the builder a reasonable opportunity
96 to repair the defect. The builder shall give the owner written
97 notice of the requirements of this chapter at the time of closing.
98 If the builder does not provide such notice, the warranties
99 provided in this chapter shall be extended for a period of time
100 equal to the time between the warranty commencement date and date
101 notice was given.

102 **SECTION 3.** This act shall take effect and be in force from
103 and after July 1, 2004.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 83-58-5, MISSISSIPPI CODE OF 1972, TO
2 REVISE BUILDERS' WARRANTIES TO HOMEOWNERS; TO AMEND SECTION
3 83-58-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT WRITTEN NOTICE
4 OF A DEFECT SHALL BE MADE WITHIN 90 DAYS AFTER KNOWLEDGE OF THE
5 DEFECT; TO PROVIDE THAT WARRANTIES SHALL BE EXTENDED IF THE
6 BUILDER DOES NOT PROVIDE NOTICE; AND FOR RELATED PURPOSES.

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Don Richardson
Clerk of the House of Representatives