



## **2011 Changes to Statutory Home Warranties**

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Several Minnesota statutes governing the relationship between contractors and owners of residential buildings have been revised, with the changes taking effect on January 1, 2011. One of the most important changes is to warranty provisions in Chapter 327A. In that chapter, which sets forth the standard homeowner warranties, the legislature has set forth a new dispute resolution process which, in most cases, is required before a lawsuit can be commenced. Other related changes have also been made to Chapter 327A.

In general, the warranty claim process begins when the owner provides notice of alleged property damage to the “vendor.” This is similar to how the process began under the old law. The legislature has further clarified who is a “vendor” of a residential building. A “vendor” under the new law now includes anyone who builds a home with the exception of subcontractors and materials suppliers.

Once a vendor (usually the general contractor) receives notice of the alleged property damage, it has 30 days to conduct an inspection of the property. It used to be that both the inspection *and* an offer to repair needed to be completed in that 30 days. However, under the new law, the deadline for submitting a written offer to repair is 15 days after the inspection is completed. The new law also specifies the content of the contractor’s written offer, which is now required to include, “at a minimum,” the scope of the proposed repair work, the proposed start date and the estimated completion date.

The new law allows the homeowner to obtain scope of repair information from another contractor. Homeowners are also not prevented from negotiating with the vendor/ contractor for a different scope of work than the one originally offered. In fact, if the parties are able to successfully negotiate the scope of repair, the new dispute resolution process is not needed. In that case, the contractor is simply required to perform the agreed-upon repairs. Afterward, the contractor is required to send written notice to the owner that the agreed-upon scope of work has been completed. As before, this notice must include a list of the completed repairs and a notice to the owner of his/her right to bring a statutory warranty claim.

The new “dispute resolution” process begins when the parties cannot agree on the scope of repair work. In that case, the homeowner “must” submit the matter to the dispute resolution process. The owner does so by applying in writing to the commissioner of labor and industry. Within ten days, the commissioner sends a list of three qualified neutrals to the parties; one of which becomes the assigned neutral within five days. (Note that the parties may agree upon a dispute resolution process other than the one contained in the revised statute.)

The parties and neutral must confer in person within 30 days of the neutral's selection, unless agreed otherwise. At least one week before the conference, the parties must submit to the neutral all information and documentation necessary to understand the dispute. While none of the communications between the parties and neutral can be used in court, beware that this rule does not necessarily apply to submissions made to the commissioner.

Within ten days after the conference, the neutral is required to send a written, *non-binding* decision which includes recommendations on the scope and amount of necessary repairs. The neutral's expenses are to be shared between the parties, but, unless agreed by the parties, the neutral's time in handling the matter is limited to six hours.

One effect of the new dispute resolution process is that it actually delays a homeowner's ability to bring a lawsuit. Assuming a contractor has fully complied with the warranty claim process, a lawsuit can only be brought if the owner does not like the neutral's decision. Such a lawsuit cannot be brought until the earlier of (1) completion of the new dispute resolution process or (2) 60 days after the written offer of repair.

The new dispute resolution process is just one of the changes to the statutory requirements for dealings between general contractors and homeowners. The revised statutes taking effect in 2011 also include new requirements for the existence and content of written documents to be provided to the owner at the outset of the project. You should contact an attorney with any question regarding compliance with the revised statutes.

*This article is a general discussion of legal topics and is not intended to be legal advice. Please contact Kevin Gray or Matthew Moehrle if you wish to discuss the impact of the matters discussed in this article on your particular situation.*