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## “Tip of the Month”

### New Residential Construction Law

On January 1, 2006, a new law affecting both contractors and homeowners goes into effect. The new law, HB 469, requires homeowners give residential contractors 60-days’ notice of construction defects and an opportunity to respond before legal action can be filed. This new law provides a cooling-off period designed to get the homeowner and builder together before anybody calls a lawyer. A “contractor” is defined in the new law as any entity providing design, new construction, or repair services on a new or existing residence.

Although the new law does not prevent the immediate filing of a legal action, or a request for attachment during the 60-day period, it does require that any legal action filed by a homeowner be stayed for 60 days until the homeowner has provided the contractor with notice of the claim, including supporting evidence, and has given the contractor 30 days to respond directly to the homeowner. Further, no attachments may be granted within the 60-day period.

The law does require a response from contractors who receive notice from the homeowner. The response must be (1) an offer for settlement without inspection, (2) a request for an inspection, or (3) an outright rejection of the claim. Homeowners are not required to allow the contractor to inspect or repair the defect.

Several provisions in the new law, however, extend well beyond the 60-day notice period. Finding new and unrelated defects seems to trigger a new 60-day notice period, whether or not litigation has begun on the initial defect. Also, if a homeowner rejects a settlement offer that turns out to be greater than a later judgment, the contractor will be deemed the prevailing party for taxation of costs purposes.

The new law also lists several items for which contractors will not be held liable. These include normal shrinkage and settlement, reliance on information from governmental entities, reliance on building codes, and normal wear and tear.

For residential construction contracts with a value of more than \$5,000, the new law also requires that the contract contain a conspicuous notice describing the new process for defective construction complaints.

If you need any help with a residential construction contract, please give us a call at 603-669-1971 or by email at [mailbox@biz-patlaw.com](mailto:mailbox@biz-patlaw.com).

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