The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ridge.

DIGEST

SB 26 Original

2019 Regular Session

Martiny

Present law provides relative to the New Home Warranty Act (Act).

Present law defines "builder" as any person, corporation, partnership, limited liability company, joint venture, or other entity which constructs a home, or addition thereto, including a home occupied initially by its builder as his residence.

Proposed law excludes from the definition of "builder" any person, corporation, partnership, limited liability company, joint venture, or other entity which constructs an addition to a home.

Present law defines "warranty commencement date" as the date that legal title to a home is conveyed to its initial purchaser or the date the home is first occupied, whichever occurs first.

Proposed law provides that the "warranty commencement date" shall be the date that legal title to a home and immovable property is conveyed to its initial purchaser or the date the home is first occupied, whichever occurs first.

Proposed law provides that if the home is built on immovable property belonging to the owner or a third party, the warranty commencement date shall be the date a certificate of occupancy is granted by the governing authority or the date the home is first occupied, whichever occurs first.

Proposed law defines "punch list" as a written list, prepared by the owner and the builder prior to the warranty commencement date, describing items that need to be completed, repaired, or replaced by the builder.

Present law provides for warranty exclusions.

Proposed law removes several present law exclusions and modifies other exclusions.

Present law requires that before an owner can make any repair himself or institute any action for breach of warranty, the owner is required to give the builder written notice, by registered or certified mail, within one year after knowledge of the defect, advising the builder of all defects and giving the builder a reasonable opportunity to comply with the Act.

Proposed law provides that in addition to written notice by registered or certified mail, the owner may give notice to the builder by email, facsimile, or other electronic means, and specifies that the owner shall notify the builder of discovered defects instead of all defects.

Proposed law provides that proof of the builder's actual knowledge of the defect shall satisfy the

notice requirements.

<u>Present law</u> requires the builder to give the owner written notice of the requirements of the Act at the time of closing, or if there is no closing, at the time of the execution of the construction contract between the builder and the owner.

<u>Proposed law</u> provides that the written notice shall be given at the time of closing or upon execution of the new home construction contract. <u>Proposed law</u> provides that if the builder fails to give the owner such notice, the builder and any employee, agent, or subcontractor of the builder shall lose the right to claim any exclusivity, protection, or defenses available to him as provided by law.

<u>Present law</u> provides for the exclusive remedies, warranties, and peremptive periods as between the builder and the owner relative to home construction.

<u>Proposed law</u> specifies that such exclusive remedies, warranties, and peremptive periods as between the builder and the owner are relative to warranties and redhibitory vices and defects of home construction discovered after the warranty commencement date.

<u>Proposed law</u> provides that nothing in the Act shall be construed as affecting or limiting the right of the owner to bring claims against the builder for punch list items not properly completed or for failing to construct the home in accordance with the plans and specifications or agreed upon change orders modifying the plans and specifications.

Effective August 1, 2019.

(Amends R.S. 9:3143(1) and (7), 3144(B), 3145, and 3150; adds R.S. 9:3143(8))