

# **ACT # 112 of the 2012 LA Regular Legislative Session (HB 1029)**

**Effective August 1, 2012**

**LA. R.S. 51:912.1 – 51:912.10**

## **NEW MANUFACTURED AND MODULAR HOME WARRANTY ACT**

### **§912.1. Purpose**

The legislature finds a need to promote commerce in Louisiana by providing clear, concise, and mandatory warranties for the purchasers and occupants of new manufactured and modular homes in Louisiana and by providing for the use of homeowners' insurance as additional protection for the public against defects in the construction of new manufactured and modular homes. This need can be met by providing a warranty for a new manufactured or modular home purchaser defining the responsibility of the builders to that purchaser and subsequent purchasers during the warranty periods provided herein. The warranty, which is mandatory in most cases, shall promote uniformity of defined building standards. Additionally, all provisions of this Part shall apply to any defect, although there is no building standard directly regulating the defective workmanship or materials.

### **§912.2. Short title**

This Part shall be known and may be cited as the "New Manufactured and Modular Home Warranty Act".

### **§912.3. Definitions**

For purposes of this Part, the following words, phrases, and terms shall be defined and construed as follows:

(1) "Builder" means a person or an entity that designs, manufactures, or constructs homes, including dealers, developers, manufacturers, and installers, whether or not the consumer purchased the underlying real estate with the home or the builder initially occupied the home as his residence.

(2)(a) "Building standards" for manufactured housing means the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended, and federal regulations promulgated pursuant thereto, along with any construction or installation-related standards adopted by the Louisiana Manufactured Housing Commission, together with any additional performance standards, if any, which the builder may undertake to be in compliance.

(b) "Building standards" for modular housing means the International Residential Code as adopted by the Louisiana State Uniform Construction Code Council.

(3) "Commission" means the Louisiana Manufactured Housing Commission.

(4) "Home" means a manufactured home or modular home as defined in this Section.

(5) "Initial purchaser" means any person for whom a home is built or the first person to whom a home is sold upon completion of construction.

(6) "Major structural defect" means any actual physical damage to the following designated load-bearing portions of a home caused by failure of the load-bearing portions which affects their load-bearing functions to the extent the home becomes unsafe, unsanitary, or is otherwise unlivable:

(a) Foundation systems and footings.

- (b) Beams.
- (c) Girders.
- (d) Lintels.
- (e) Columns.
- (f) Walls and partitions.
- (g) Floor systems.
- (h) Roof framing systems.

(7) "Manufactured home" or "manufactured housing" means a factory-built, residential dwelling unit constructed to standards and codes, as promulgated by the United States Department of Housing and Urban Development, under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended. Further, the terms "manufactured home" and "manufactured housing" may be used interchangeably and apply to structures bearing the permanently affixed seal of the United States Department of Housing and Urban Development or to factory-built, residential dwellings that are mounted on a chassis.

(8) "Modular home" means a factory-built, residential dwelling unit built to the International Residential Code as adopted by the Louisiana State Uniform Construction Code Council.

(9) "Owner" means the initial purchaser of a home and any of his successors in title, heirs, invitees, or assigns to a home during the time the warranties provided under this Part are in effect.

(10) "Warranty commencement date" means 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.

#### **§912.4. Warranties; exclusions**

A. Subject to the exclusions provided in Subsection B of this Section, every builder warrants the following to the owner:

(1) One year following the warranty commencement date, the home will be free from any defect due to noncompliance with the building standards or due to other defects in materials or workmanship not regulated by building standards.

(2) Two years following the warranty commencement date, the plumbing, electrical, heating, cooling, and ventilating systems exclusive of any appliance, fixture, and equipment will be free from any defect due to noncompliance with the building standards or due to other defects in materials or workmanship not regulated by building standards.

(3) Five years following the warranty commencement date, the home will be free from major structural defects due to noncompliance with the building standards or due to other defects in materials or workmanship not regulated by building standards.

B. Unless the parties otherwise agree in writing, the builder's warranty shall exclude the following items:

(1) Fences, landscaping, including but not limited to sodding, seeding, shrubs, existing and new trees, and plantings, as well as off-site improvements, all driveways and walkways, or any other improvement not a part of the home itself.

(2) After the first year, the concrete floor of a basement and the concrete floor of an attached or unattached garage that is built separate from a foundation wall or other structural element of the home.

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

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

(a) Negligence, improper maintenance, neglect, or improper operation by anyone other than the builder or any employee, agent, or subcontractor of the builder.

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

(c) Failure by the owner to give written notice by registered or certified mail to the commission of any defect within the time set forth in this Section; however, the provisions of this Subparagraph shall not be construed to change either the warranty periods enumerated in Subsection A of this Section or the notice requirements provided by this Section.

(d) Any change of the grading of the ground by anyone other than the builder, or any employee, agent, or subcontractor of the builder.

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

(f) Dampness, condensation, or other damage due to the failure of the owner to maintain adequate ventilation or drainage.

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

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

(7) Normal wear and tear or normal deterioration.

(8) Loss or damage which does not constitute a defect in the construction of the home by the builder or any employee, agent, or subcontractor of the builder.

(9) Loss or damage resulting from war, accident, riot and civil commotion, water escape, falling objects, aircraft, vehicles, acts of God, lightning, windstorm, hail, flood, mudslide, earthquake, volcanic eruption, wind-driven water, and changes in the level of the underground water table which are not reasonably foreseeable.

(10) Any damage caused by soil movement which is covered by other insurance.

(11) Insect damage.

(12) Any loss or damage which arises while the home is being used primarily for a nonresidential purpose.

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

(14) Bodily injury or damage to personal property.

(15) Any cost of shelter, transportation, food, moving, storage, or other incidental expense related to relocation during repair.

(16) Any defect not reported in writing by registered or certified mail to the commission or insurance company, as appropriate, prior to the expiration of the period specified in Subsection A of this Section for such defect plus thirty days.

(17) Consequential damages.

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

(19) Mold and mold damage.

C. The provisions of Subsection A of this Section establish minimum required warranties and shall not be waived by the owner or reduced by the builder provided the home is a single- or multiple-family dwelling to be occupied by an owner as his home.

#### **§912.5. Required notice**

A. Before undertaking any repair himself or instituting any action for breach of warranty, the owner shall give the commission written notice, by registered or certified

mail, within one year after knowledge of the defect, advising the commission of all defects. The commission shall then have the home inspected and a determination made on all defects listed by the owner. Thereafter, the commission shall give the appropriate builder a reasonable opportunity to comply with the provisions of this Part. Once the repairs are made, the commission shall have the home reinspected to determine if the repairs have been made in compliance with the building standards.

B. The dealer or developer licensee shall give the owner written notice of the requirements of this Part at the time of the closing between the dealer or developer and the owner, or if there is no such closing, at the time of the execution of the purchase agreement between the dealer or developer and the owner. The commission shall adopt and promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Subsection.

**§912.6. Peremption**

Any action to enforce any warranty provided in this Part shall be subject to a peremptive period of thirty days after the expiration of the appropriate time period provided in R.S. 51:912.4.

**§912.7. Insurance**

All or part of the builder's obligation under any warranty required in this Part may be insured by the builder for the benefit of the purchaser through an insurance company authorized to transact business in this state.

**§912.8. Transfer of warranty and insurance**

Any warranty imposed pursuant to this Part and any insurance benefit shall automatically transfer without charge to a subsequent owner who acquires title to the home. Any transfer of the home shall not extend the duration of any warranty or insurance coverage.

**§912.9. Violations; limitations**

A. If a builder violates this Part by failing to perform as required by the warranties provided in this Part, any affected owner shall have a cause of action against the builder for actual damages, including attorney fees and court costs, arising out of the violation. The damages with respect to a single defect shall not exceed the reasonable cost of repair or replacement necessary to cure the defect, and damages with respect to all defects in the home shall not exceed the original purchase price of the home.

B. The parties may provide for the arbitration of any claim in dispute. Any arbitration shall comply with and may be binding only to the extent provided in R.S. 9:4201 et seq.

**§912.10. Exclusiveness**

This Part provides the exclusive remedies, warranties, and peremptive periods as between the builders and owner relative to the construction of homes as defined in this Part, and no other provisions of law relative to warranties and redhibitory vices and defects shall apply. Nothing herein shall be construed as affecting or limiting any warranty of title to land or improvements.

**I CONFIRM THAT THE HOME SELLER HAS GIVEN ME A COPY OF THE MANUFACTURED AND MODULAR WARRANTY ACT ON \_\_\_\_\_.**

\_\_\_\_\_  
**Signature / Home Buyer**

\_\_\_\_\_  
**Signature / Home Buyer**