

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE BILL 461

Short Title: Warranty as Insurance Contract.

(Public)

Sponsors: Representative Miller.

Referred to: Judiciary II.

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW THAT DETERMINES WHEN A WARRANTY RELATING TO REAL PROPERTY CONSTITUTES A CONTRACT OF INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-1-20 reads as rewritten:

"§ 58-1-20. Real property warranties.

(a) Any warranty relating to tangible personal property or fixtures to real property issued in connection with the sale of real property by a person as defined in this Article shall be a contract of insurance, except the following, which shall not be contracts of insurance:

(1) ~~A warranty made by a builder or seller of the real property; A performance guarantee given by either the builder of a home or the manufacturer or seller of an appliance or other system or component of a home;~~

(2) A warranty incidental to the sale of real property providing for the repair or replacement of the items covered by the warranty for defective parts and mechanical failure or resulting from ordinary wear and tear, which warranty excludes from its coverage damage from recognizable perils such as fire, flood, and wind, which perils do not relate to any defect in the items covered nor result from ordinary wear and tear. ~~Any person issuing such warranties shall post a surety bond with the Secretary of State in the principal sum of not less than seventy five thousand dollars (\$75,000), which bond shall be subject to the approval of the Secretary of State. Any person to whom the warranty is issued has the~~

1                   ~~right to institute an action to recover against the warrantor and the surety~~  
2                   ~~bond for breach of warranty.~~

3           (3)   Any service contract, guarantee or warranty intending to guarantee or  
4           warrant the repairs or service of a home appliance, system, or  
5           component, provided such service contract, guarantee, or warranty is  
6           issued by a person, other than a person, firm, or corporation issuing  
7           warranties allowed under subdivision (2) of this subsection, who has  
8           manufactured, sold, serviced, repaired, or provided replacement of  
9           such appliance, system, or component prior to issuance of the service  
10           contract, guarantee, or warranty.

11       (b)   Any person, firm, or corporation issuing warranties allowed under  
12   subdivision (2) of subsection (a) of this section shall post a surety bond with the  
13   Secretary of State in the principal sum of not less than seventy-five thousand dollars  
14   (\$75,000); such bond shall be approved by the Secretary of State and any person to  
15   whom the warranty is issued shall have the right to institute an action to recover against  
16   the warrantor and the surety bond for breach of warranty."

17           Sec. 2. This act becomes effective July 1, 1991.