



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB5454

Introduced 2/13/2026, by Rep. Dagmara Avelar

SYNOPSIS AS INTRODUCED:

New Act

Amends the Consumer Protection New Construction Residential Housing Act. Provides that a housing merchant implied warranty is implied in the contract or agreement for the sale of a new home and shall survive the passing of title. A housing merchant implied warranty shall mean that: (1) one year from and after the warranty date the home will be free from defects due to a failure to have been constructed in a skillful manner; (2) two years from and after the warranty date the plumbing, electrical, heating, cooling, and ventilation systems of the home will be free from defects due to a failure by the builder to have installed the systems in a skillful manner; and (3) six years from and after the warranty date the home will be free from material defects. Provides for the exclusion or modification of warranties. Preempts home rule.

LRB104 19699 JRC 33148 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Consumer Protection New Construction Residential Housing Act.

6 Section 5. Definitions. As used in this Act:

7 "Builder" means any person, corporation, partnership, or
8 other entity contracting with an owner for the construction or
9 sale of a new home.

10 "Building code" means a building code adopted by the State
11 or a unit of local government.

12 "Constructed in a skillful manner" means that workmanship
13 and materials meet or exceed the specific standards of the
14 applicable building code. For the purposes of this definition,
15 if the applicable building code does not provide relevant
16 specific standard, "constructed in a skillful manner" means
17 that workmanship and materials meet or exceed the standards of
18 locally accepted building practices.

19 "Material defect" means actual physical damage to the
20 following load-bearing portions of the home caused by failure
21 of the load-bearing portions which affects their load-bearing
22 functions to the extent that the home becomes unsafe,
23 unsanitary, or otherwise unlivable: foundation systems and

1 footings; beams; girders; lintels; columns; walls and
2 partitions; floor systems; and roof framing systems.

3 "New home" or "home" means any single family house or
4 for-sale unit in a multi-unit residential structure of 5
5 stories or less in which title to the individual units is
6 transferred to owners under a condominium or cooperative
7 regime. "New home" or "home" does not include dwellings
8 constructed solely for lease, mobile home, or any house or
9 unit in which the builder has resided or leased continuously
10 for 3 years or more following the date of completion of
11 construction, as evidenced by a certificate of occupancy.

12 "Owner" means the first person to whom the home is sold
13 and, during the unexpired portion of the warranty period, each
14 successor in title to the home and any mortgagee in
15 possession. "Owner" does not include the builder of the home
16 or any firm under common control of the builder.

17 "Plumbing, electrical, heating, cooling, and ventilation
18 systems" mean:

19 (1) in the case of plumbing systems: gas supply lines
20 and fittings; water supply, waste, and vent pipes and
21 their fittings; septic tanks and their drain fields;
22 water, gas, and sewer service piping, and their extensions
23 to the tie-in of a public utility connection, or on-site
24 well and sewage disposal system;

25 (2) in the case of electrical systems: all wiring,
26 electrical boxes, switches, outlets and connections up to

1 the public utility connection; and

2 (3) in the case of heating, cooling, and ventilation
3 systems: all duct work, steam, water, and refrigerant
4 lines, registers, convectors, radiation elements, and
5 dampers.

6 "Warranty date" means the date of the passing of title to
7 the first owner for occupancy by the owner or the owner's
8 family as a residence, or the date of first occupancy of the
9 home as a residence, whichever occurs first.

10 Section 10. Housing merchant implied warranty.

11 (a) Notwithstanding any other provision of law, a housing
12 merchant implied warranty is implied in the contract or
13 agreement for the sale of a new home and shall survive the
14 passing of title. A housing merchant implied warranty shall
15 mean that:

16 (1) one year from and after the warranty date the home
17 will be free from defects due to a failure to have been
18 constructed in a skillful manner;

19 (2) 2 years from and after the warranty date the
20 plumbing, electrical, heating, cooling, and ventilation
21 systems of the home will be free from defects due to a
22 failure by the builder to have installed the systems in a
23 skillful manner; and

24 (3) six years from and after the warranty date the
25 home will be free from material defects.

1 (b) Unless the contract or agreement by its terms clearly
2 evidences a different intention of the seller, a housing
3 merchant implied warranty does not extend to:

4 (1) any defect that does not constitute (i) defective
5 workmanship by the builder or by an agent, employee or
6 subcontractor of the builder, (ii) defective materials
7 supplied by the builder or by an agent, employee or
8 subcontractor of the builder, or (iii) defective design
9 provided by a design professional retained exclusively by
10 the builder; or

11 (2) any patent defect which an examination ought in
12 the circumstances to have revealed, when the buyer before
13 taking title or accepting construction as complete has
14 examined the home as fully as the buyer desired, or has
15 refused to examine the home.

16 (c) In the case of goods sold incidentally with or
17 included in the sale of the new home, such as stoves,
18 refrigerators, freezers, room air conditioners, dishwashers,
19 clothes washers, and dryers, a housing merchant implied
20 warranty shall mean that the goods shall be free from defects
21 due to failure by the builder or any agent, employee, or
22 subcontractor of the builder to have installed the systems in
23 a skillful manner. Merchantability, fitness, and all other
24 implied warranties with respect to goods shall be governed by
25 the Uniform Commercial Code and any other applicable statute.

26 (d) (1) A written notice of a warranty claim for breach of a

1 housing merchant implied warranty must be received by the
2 builder prior to the commencement of any action under
3 paragraph (2) and no later than 30 days after the expiration of
4 the applicable warranty period, as described in subsection
5 (a). The owner and occupant of the home shall afford the
6 builder reasonable opportunity to inspect, test, and repair
7 the portion of the home to which the warranty claim relates.

8 (2) An action for damages or other relief caused by the
9 breach of a housing merchant implied warranty may be commenced
10 prior to the expiration of one year after the applicable
11 warranty period, as described in subsection (a), or within 4
12 years after the warranty date, whichever is later. If the
13 builder makes repairs in response to a warranty claim under
14 paragraph (1), an action with respect to the claim may be
15 commenced within one year after the last date on which the
16 repairs are performed. The measure of damages shall be the
17 reasonable cost of repair or replacement and property damage
18 to the home proximately caused by the breach of warranty, not
19 to exceed the replacement cost of the home exclusive of the
20 value of the land, unless the court finds that, under the
21 circumstances, the diminution in value of the home caused by
22 the defect is a more equitable measure of damages.

23 (3) In addition to any other period for the commencement
24 of an action permitted by law, an action for contribution or
25 indemnification may be commenced at any time prior to the
26 expiration of one year after the entry of judgment in an action

1 for damages under paragraph (2).

2 (e) Except as otherwise provided in Section 15, any
3 provision of a contract or agreement for the sale of a new home
4 which excludes or modifies a housing merchant implied warranty
5 shall be void as contrary to public policy.

6 (f) Except as otherwise provided in Section 15, other
7 implied warranties may arise from the terms of the contract or
8 agreement or from course of dealing or usage of trade.

9 Section 15. Exclusion or modification of warranties.

10 (a) Except in the case of a housing merchant implied
11 warranty, the builder or seller of a new home may exclude or
12 modify all warranties by any clear and conspicuous terms
13 contained in the written contract or agreement of sale which
14 call the buyer's attention to the exclusion or modification of
15 warranties and make the exclusion or modification plain.

16 (b) Except in the case of a housing merchant implied
17 warranty, the builder or seller of a new home may exclude or
18 modify warranties with respect to particular defects by any
19 clear and conspicuous terms contained in the written contract
20 or agreement of sale which identify the defects, call the
21 buyer's attention to the exclusion or modification of
22 warranties and make the exclusion or modification plain.

23 (c) A housing merchant implied warranty may be excluded or
24 modified by the builder or seller of a new home only if the
25 buyer is offered a limited warranty in accordance with the

1 provisions of this Section.

2 A copy of the express terms of the limited warranty shall
3 be provided in writing to the buyer for examination prior to
4 the time of the buyer's execution of the contract or agreement
5 to purchase the home. A copy of the express terms of the
6 limited warranty shall be included in, or annexed to, and
7 incorporated in, the contract or agreement.

8 The language of the contract or agreement for sale of the
9 home must conspicuously mention the housing merchant implied
10 warranty and provide that the limited warranty excludes or
11 modifies the implied warranty. Language to exclude all implied
12 warranties is sufficient if it states, for example, that
13 "There are no warranties which extend beyond those included in
14 the contract or agreement".

15 The limited warranty shall meet or exceed the standards
16 provided in subsections (d) and (e).

17 (d) A limited warranty sufficient to exclude or modify a
18 housing merchant implied warranty must be written in plain
19 English and must clearly disclose:

20 (1) that the warranty is a limited warranty which
21 limits implied warranties on the sale of the home; the
22 words "limited warranty" must be clearly and conspicuously
23 captioned at the beginning of the warranty document;

24 (2) the identification of the names and addresses of
25 all warrantors;

26 (3) the identification of the party or parties to whom

1 the warranty is extended and whether it is extended to
2 subsequent owners; the limited warranty must be extended
3 to the first owner of the home and survive the passing of
4 title but may exclude any or all subsequent owners;

5 (4) a statement of the products or parts covered by
6 the limited warranty;

7 (5) the clear and conspicuous identification of any
8 parts or portions of the home or premises that are
9 excepted or excluded from warranty coverage, and the
10 standards that will be used to determine whether a defect
11 has occurred; provided, however, that:

12 (A) any exception, exclusion, or standard which
13 does not meet or exceed a relevant specific standard
14 of the applicable building code, or in the absence of
15 the relevant specific standard a locally accepted
16 building practice, shall be void as contrary to public
17 policy and shall be deemed to establish the applicable
18 building code standard or locally accepted building
19 practice as the warranty standard; and

20 (B) any exception, exclusion, or standard that
21 fails to ensure that the home is habitable, by
22 permitting conditions to exist which render the home
23 unsafe, shall be void as contrary to public policy;

24 (6) what the builder and any other warrantor will do
25 when a defect covered by the warranty does arise, and the
26 time within which the builder and any other warrantor will

1 act;

2 (7) the term of the warranty coverage and when the
3 term begins, provided, however, that the term shall be
4 equal to or exceed the warranty periods of a housing
5 merchant implied warranty, as defined in subsection (a) of
6 Section 10;

7 (8) step-by-step claims procedures required to be
8 undertaken by the owner, if any, including directions for
9 notification of the builder and any other warrantor; an
10 owner shall not be required to submit to binding
11 arbitration or to pay any fee or charge for participation
12 in nonbinding arbitration or any mediation process; and

13 (9) any limitations on or exclusions of consequential
14 or incidental damages, and any limitations on the
15 builder's and other warrantor's total liability,
16 conspicuously expressed on the first page of the warranty.

17 Notwithstanding the provisions of this subsection, a
18 limited warranty shall not be construed to permit any
19 limitation on or exclusion of property damage to the home
20 proximately caused by a breach of the limited warranty, where
21 the court finds that the limitation or exclusion would cause
22 the limited warranty to fail of its essential purpose, except
23 that the property damage may be limited by an express
24 limitation on the builder's or other warrantor's total
25 liability in accordance with the provisions of this paragraph.

1 Section 20. Home rule. The regulation of implied
2 warranties for new homes is an exclusive power and function of
3 the State. A home rule unit may not regulate implied
4 warranties for new homes. This Section is a denial and
5 limitation of home rule powers and functions under subsection
6 (h) of Section 6 of Article VII of the Illinois Constitution.

7 Section 25. Relation to other laws. Nothing in this Act
8 shall be construed to repeal, invalidate, supersede, or
9 restrict any right, liability, or remedy provided by any other
10 statute, except where the construction would, as a matter of
11 law, be unreasonable.