

PROPERTY CODE
TITLE 16. TEXAS RESIDENTIAL CONSTRUCTION COMMISSION ACT
SUBTITLE A. GENERAL PROVISIONS
CHAPTER 401. GENERAL PROVISIONS

Sec. 401.001. SHORT TITLE. This title may be cited as the Texas Residential Construction Commission Act.
Added by Acts 2003, 78th Leg., ch. 458, Sec. 1.01, eff. Sept. 1, 2003.

Sec. 401.002. GENERAL DEFINITIONS. In this title:

(1) "Applicable building and performance standards" means:

(A) building and performance standards adopted under Section 430.001; or

(B) for homes constructed before the adoption of building and performance standards under Section 430.001, the building and performance standards under any express warranty provided in writing by the builder or, if there is no express warranty, the usual and customary residential construction practices in effect at the time of the construction.

(2) "Applicable warranty period" means:

(A) a warranty period established under Section 430.001; or

(B) for construction to which the warranty periods adopted under Section 430.001 do not apply, any other construction warranty period that applies to the construction.

(3) "Approved architect" means an architect licensed by this state and approved by the commission to provide services to the commission in connection with the state-sponsored inspection and dispute resolution process.

(4) "Approved structural engineer" means a licensed professional engineer approved by the commission to provide services to the commission in connection with the state-sponsored inspection and dispute resolution process.

(5) "Commission" means the Texas Residential Construction Commission.

(6) "Home" means the real property and improvements and appurtenances for a single-family house or duplex.

(7) "Homeowner" means a person who owns a home or a subrogee or assignee of a person who owns a home.

(8) "Limited statutory warranty and building and performance standards" means the limited statutory warranty and building and performance standards adopted by the commission under Section 430.001.

(9) "Nonstructural matter" has the meaning assigned by the limited statutory warranty and building and performance standards adopted by the commission under Section 430.001.

(10) "Request" means a request submitted under Section 428.001.

(11) "State inspector" means a person employed by the commission under Section 427.002.

(12) "State-sponsored inspection and dispute resolution process" means the process by which the commission resolves a request.

(13) "Structural" means the load-bearing portion of a home.

(14) "Structural failure" has the meaning assigned by the limited statutory warranty and building and performance standards adopted by the commission under Section 430.001.

(15) "Third-party inspector" means a person appointed by the commission under Section 428.003.

(16) "Warranty of habitability" means a builder's obligation to construct a home or home improvement that is in compliance with the limited statutory warranties and building and performance standards adopted by the commission under Section 430.001 and that is safe, sanitary, and fit for humans to inhabit.
Added by Acts 2003, 78th Leg., ch. 458, Sec. 1.01, eff. Sept. 1, 2003.

Sec. 401.003. DEFINITION OF BUILDER. (a) In this title, "builder" means any business entity or individual who, for a fixed price, commission, fee, wage, or other compensation, constructs or supervises or manages the construction of:

(1) a new home;

(2) a material improvement to a home, other than an improvement solely to replace or repair a roof of an existing home;
or

(3) an improvement to the interior of an existing home when the cost of the work exceeds \$20,000.

(b) The term includes:

(1) an owner, officer, director, shareholder, partner, affiliate, or employee of the builder;

(2) a risk retention group governed by Article 21.54, Insurance Code, that insures all or any part of a builder's liability for the cost to repair a residential construction defect; and

(3) a third-party warranty company and its administrator.

(c) The term does not include any business entity or individual who has been issued a license by this state or an agency or political subdivision of this state to practice a trade or profession related to or affiliated with residential construction if the work being done by the entity or individual to the home is solely for the purpose for which the license was issued.

Added by Acts 2003, 78th Leg., ch. 458, Sec. 1.01, eff. Sept. 1, 2003.

Sec. 401.004. DEFINITION OF CONSTRUCTION DEFECT. (a) In this title, "construction defect" means:

(1) the failure of the design, construction, or repair of a home, an alteration of or a repair, addition, or improvement to an existing home, or an appurtenance to a home to meet the applicable warranty and building and performance standards during the applicable warranty period; and

(2) any physical damage to the home, an appurtenance to the home, or real property on which the home or appurtenance is affixed that is proximately caused by that failure.

(b) The term does not include a defect that arises or any damages that arise wholly or partly from:

(1) the negligence of a person other than the builder or an agent, employee, subcontractor, or supplier of the builder;

(2) failure of a person other than the builder or an agent, employee, subcontractor, or supplier of the builder to:

(A) take reasonable action to mitigate any damages that arise from a defect; or

(B) take reasonable action to maintain the home;

(3) normal wear, tear, or deterioration; or

(4) normal shrinkage due to drying or settlement of construction components within the tolerance of building and performance standards.

Added by Acts 2003, 78th Leg., ch. 458, Sec. 1.01, eff. Sept. 1, 2003.

Sec. 401.005. EXEMPTIONS. (a) This title does not apply to a home that is:

(1) built by the individual who owns the home, alone or with the assistance of the individual's employees or independent contractors; and

(2) used by the individual as the individual's primary residence for at least one year after the completion or substantial completion of construction of the home.

(b) This title does not apply to a homeowner or to a homeowner's real estate broker, agent, or property manager who supervises or arranges for the construction of an improvement to a home owned by the homeowner.

Added by Acts 2003, 78th Leg., ch. 458, Sec. 1.01, eff. Sept. 1, 2003.

Sec. 401.006. SUNSET PROVISION. The Texas Residential Construction Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this title expires September 1, 2009.

Added by Acts 2003, 78th Leg., ch. 458, Sec. 1.01, eff. Sept. 1, 2003.