

By the Committee on Commerce and Economic Opportunities; and  
Senator Holzendorf

310-1748-02

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A bill to be entitled  
An act relating to construction contracts;  
requiring a contract for construction of  
certain dwellings to contain an occupancy date  
and a penalty for delay of occupancy under  
certain circumstances; specifying requirements  
for the penalty; providing a minimum penalty  
for a contract that does not contain a penalty;  
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) Each contract for construction of a one-family or two-family dwelling must contain a clause that specifies the date by which a certificate of occupancy will be issued and must contain an explicit penalty clause that provides for liquidated damages for delay caused by the builder and that specifies the amount of such damages for each day that issuance of the certificate of occupancy is delayed after the specified date.

(2) The penalty clause may provide for actual damages for delay caused by the builder in lieu of providing for liquidated damages if the provision for such damages is explicitly stipulated in the contract.

(3) The amount of liquidated damages for delay caused by the builder shall be \$100 for each day that issuance of the certificate of occupancy is delayed after the specified date if either of the following apply:

(a) The contract does not contain a penalty clause; or

1           (b) The penalty clause does not contain either the  
2 amount of liquidated damages or a provision for actual damages  
3 in lieu of liquidated damages.

4           (4) This section does not apply to a contract that is  
5 entered into before the effective date of this section or a  
6 renewal of such contract.

7           Section 2. This act shall take effect January 1, 2003.

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9           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
10                                COMMITTEE SUBSTITUTE FOR  
11                                Senate Bill 212

12           The committee substitute replaces the original bill and  
13           requires construction contracts for one-family and two-family  
14           dwellings to specify the date by which a certificate of  
15           occupancy will be issued and to provide for liquidated damages  
16           for each day that occupancy is delayed by the builder after  
17           the contracted date. If a contract does not specify an amount  
18           of liquidated damages, the committee substitute establishes a  
19           default amount at \$100 for each day that occupancy is delayed.  
20           The committee substitute also allows contracts to provide  
21           actual damages in lieu of liquidated damages.  
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