

Guest opinion

Home buyers need warranty protection

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What do hair stylists and fingernail "technicians" have in common? They have to perform at least 600 hours of training before they can obtain a license. Then, if they are negligent, they are liable to their customers for any harm they cause.

What do contractors and bureaucrats have in common? Neither has to obtain a license or undergo any training before they begin work, and neither can be held liable for negligence unless they injure someone.

During my 27 years as a lawyer, I have represented home builders, plumbers, electricians and huge contractors. About 10 years ago, I started hearing from dozens of home buyers that their new homes were falling apart, rotting, leaking, sliding off foundations, flooding from plumbing leaks. What I found was shocking. Brand new homes, even expensive custom homes, were so poorly built they had to be rebuilt within two to three years.

What I have learned is that in Washington contractors enjoy a unique advantage over all other businesses. They are immune from liability for shoddy workmanship. Consider this: if a contractor uses untreated lumber to build a home and it rots, the owner cannot sue for the cost of repairs. If a plumber fails to connect the toilets to the waste lines, and all the sewage flows into the crawl space, the owner can't sue the plumber for the cost of repairs.

If a family buys a 1-year-old house, then watches it slide down the hill because the builder didn't put in a proper foundation, can the owner recover from anyone? No. The law says a second owner has no rights.

Most states require builders to pass stringent competency tests, or they impose minimum warranties to protect consumers. Washington does neither. While state law requires builders to comply with minimum building codes, it prevents injured homeowners from suing the builders for damages – even where the builders have ignored the codes.

Last year, the state Senate passed a bill creating warranties that would have given owners the right to hold contractors responsible for problems with their homes. The bill was modeled after other state laws, including California's, which until recently had a booming

housing market. Unfortunately, under pressure from builders, the state House of Representatives refused to vote on the bill.

Last week in Olympia, the House Judiciary Committee passed a new version of the warranty bill, modeling it on the existing and successful warranties for condo buyers. The new bill would impose no new building codes, no new obligations or standards. But, it would allow homeowners for the first time in state history to hold those responsible for damaging their homes.

The bill is very simple. It says that builders would have to comply with building codes and engineering standards and perform their work in a workmanlike manner, all of which they are already required to do. Then, if a homeowner discovers a problem, the owner would have to notify the contractor and give him a chance to inspect and correct the problem. The owner cannot sue the contractor unless the contractor fails or refuses to fix the problem.

No other industry enjoys this kind of legislative protection. Drivers, doctors, hair stylists and masseuses are liable for their mistakes, and we don't question whether that's good or bad for the economy. It's simply the right thing to do. When we hold people responsible to perform their jobs with reasonable care, they find ways of improving their work. Hospitals are finding better ways to protect patient health. Lawyers attend at least 15 hours of new training every year. Toymakers have to protect consumers.

I urge the House of Representatives to pass the new Home Warranty bill. It's time we protect homeowners from shoddy work and give them a chance to preserve their biggest investments – their homes.