**A** **BILL**

TO AMEND SECTION 40‑59‑840, CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, RELATED TO NOTICE AND OPPORTUNITY TO CURE CONSTRUCTION DWELLING DEFECTS, SO AS TO PROVIDE THAT THE NOTICE OF THE RIGHT TO CURE IS SATISFIED IN A CLASS ACTION LAWSUIT, IF THE NOTICE IS SENT TO THE ATTORNEY FOR THE CONTRACTOR OR SUBCONTRACTOR AFTER THE CLASS IS CERTIFIED; AND SECTION 40‑59‑860, CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, RELATED TO APPLICATION IF THE PROVISIONS CONCERNING NOTICE AND OPPORTUNITY TO CURE CONSTRUCTION DWELLING DEFECTS, SO AS TO PROVIDE THAT A CLASS ACTION LAWSUIT IS NOT PRECLUDED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑59‑840, as added by Act No. 82 of 2003 to the 1976 Code, is amended to read:

“Section 40‑59‑840. (A) In an action brought against a contractor or subcontractor arising out of the construction of a dwelling, the claimant must, no later than ninety days before filing the action, serve a written notice of claim on the contractor. The notice of claim must contain the following:

(1) a statement that the claimant asserts a construction defect;

(2) a description of the claim or claims in reasonable detail sufficient to determine the general nature of the construction defect; and

(3) a description of any results of the defect, if known.

(B) The notice required in subsection (A) is satisfied in a class action lawsuit if the notice is sent to the attorney for the contractor or subcontractor after the class is certified.

(C) The contractor or subcontractor shall advise the claimant within fifteen days of receipt of the claim if the construction defect is not sufficiently stated and shall request clarification.”

SECTION 2. Section 40‑59‑860, as added by Act No. 82 of 2003 to the 1976 Code, is amended to read:

“Section 40‑59‑860. (A) Nothing in this article applies to actions arising out of claims for personal injury or death, or both.

(B) Court Administration must develop a designation on the Civil Action Cover Sheet which indicates whether a stay has been granted for a civil action filed pursuant to the South Carolina Notice and Opportunity to Cure Construction Defects Act.

(C) Nothing in this article precludes the filing of a class action lawsuit pursuant to the provisions of the South Carolina Court Rules.”

SECTION 3. This act takes effect upon approval by the Governor.

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