

VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

CHAPTER 368

An Act to amend and reenact § 36-156.1 of the Code of Virginia, relating to the definition of defective drywall.

[H 839]

Approved March 23, 2012

Be it enacted by the General Assembly of Virginia:

1. That § 36-156.1 of the Code of Virginia is amended and reenacted as follows:

§ 36-156.1. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Resources Authority.

"Bona fide prospective purchaser" means a person who acquires ownership, or proposes to acquire ownership, of real property affected by defective drywall.

"Cost," as applied to any project financed under the provisions of this chapter, means the reasonable and necessary costs incurred for carrying out all works and undertakings necessary or incident to the correction or elimination of defective drywall. It includes, without limitation, all necessary developmental, planning, and feasibility studies, surveys, plans, and specifications; architectural, engineering, financial, legal, or other special services; site assessments, remediation, containment, and demolition or removal of existing structures or portions thereof; the discharge of any obligation of the seller of such land, buildings, or improvements; labor; materials, machinery, and equipment; the funding of accounts and reserves that the Authority may require; the reasonable costs of financing incurred by the local government in the course of the development of the project; carrying charges incurred prior to completion of the project; and the cost of other items that the Authority determines to be reasonable and necessary.

"Defective drywall" means drywall installed during new construction or renovation that occurred between 2001 and 2008, where there is visual evidence of the blackening of copper electrical wiring or air conditioning evaporator coils (or documentation of the replacement of evaporator coils due to blackened corrosion resulting in failure), and where two or more pieces of corroborating evidence are present in the form of defective conditions as demonstrated by testing procedures recommended by the Consumer Products Safety Commission; confirmed markings of the Chinese origin of the drywall; or strontium levels from drywall core samples from the property exceeding 1200 parts per million (ppm); elemental sulfur levels in samples of drywall core found in the home exceeding 10 ppm; elevated levels of hydrogen sulfide, carbonyl sulfide, or carbon disulfide emitted from samples of drywall from the home when placed in test chambers using ASTM Standard Test Method D5504-08 or similar chamber or headspace testing; or the corrosion of copper metal to form copper sulfide when copper is placed in test chambers with drywall samples taken from the property or similar building material composed of dried gypsum-based plaster that (i) contains elemental sulfur exceeding 10 parts per million as has been found in some drywall manufactured in the People's Republic of China and imported into the United States between 2004 and 2007 and, when exposed to heat, humidity, or both, releases elevated levels of hydrogen sulfide gas into the air or (ii) has been designated by the U.S. Consumer Product Safety Commission as a product with a product defect that constitutes a substantial product hazard within the meaning of § 15 (a)(2) of the Consumer Product Safety Act (15 U.S.C. § 2064(a)(2)).

"Department" means the Department of Housing and Community Development.

"Director" means the Director of the Department of Housing and Community Development.

"Fund" means the Virginia Defective Drywall Correction and Restoration Assistance Fund.

"Innocent land owner" means a person who holds any title, security interest, or any other interest in residential real property and who acquired that interest after the installation of defective drywall occurred.

"Local government" means any county, city, town, municipal corporation, authority, district, commission, or political subdivision of the Commonwealth created by the General Assembly or otherwise created pursuant to the laws of the Commonwealth or any combination of the foregoing.