

Change in Missouri Merchandising Practices Act to Protect Home Builders

Amundsen Davis Real Estate Alert
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Relief from the burdens and threat of litigation from plaintiffs' attorneys under the Missouri Merchandising Practices Act (MMPA) will take effect on August 28, 2020.

The MMPA, set out in Chapter 407RSMo., is intended to protect consumers. Under the MMPA, a consumer may bring a civil lawsuit against a seller which misrepresents material information about the real or personal property sold, or services provided even though the consumer does not have a traditional breach of contract or fraud claim. The MMPA provides for the award of punitive damages and attorneys' fees spent in pursuing the suit.

Due to the much lower standard of proof required under the MMPA and the opportunity to recover attorneys' fees and punitive damages, plaintiffs' attorneys have used the MMPA as a weapon against builders turning home defect claims into MMPA suits. Moreover, MMPA claims are pursued regardless of whether the new home builder provides an express warranty. As a result, new home builders have been forced to participate in prolonged negotiations where reasonable solutions are not accepted and large settlements are the goal. These large settlements hurt the home builders' business and ultimately drive up the price of new homes.

Under the new law a purchaser may not bring an MMPA claim in a new home sale transaction if the home builder offers an express warranty or a third-party warranty as part of the sale AND discloses to the purchaser with language required by the statute notice that the MMPA will not apply to the contract.

These changes benefit new home builders by creating certainty in the home sale transaction, reduce legal costs and eliminate the threat of attorneys' fees claims and damages under the MMPA. New home builders will be able to stand behind their work through their express warranties and will be able to work with consumers to offer reasonable solutions to perceived misrepresentations.

The changes do not apply to transactions involving existing homes.

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