



RIGHT TO REPAIR ACT GEORGIA (O.C.G.A. Section 8-2-35 et seq.) FACT SHEET¹



What is the first step the law requires of a homeowner desiring to file suit against a contractor?

You must serve written notice to the last known address of each responsible contractor at least 90 days before initiating a lawsuit. This means sending your notice by certified mail or overnight delivery, with a return receipt requested. If, during this time, the statute of limitations is due to expire, you may go ahead and file the lawsuit, but it is still necessary to complete the notice process. This notice requirement does not apply in a situation where defective construction resulted in personal injury or death.

What should the written notice say?

The notice must state that you, as the homeowner, are making a claim due to one or more construction defects and that the purpose of providing the notice is to meet the statutory requirements. It must also specify both the type and the results of any defects you are claiming. You must provide the contractor with any expert reports you have that describe the nature and cause of the defect(s), including inspections, photographs or videos.

What if other defects are discovered later?

If you discover additional defects after serving notice, you must begin a separate notice process for those defects.

What happens after notice is served to the contractor?

The contractor has 30 days to reply in writing and choose whether to inspect the house or settle without inspection. The contractor may inform you that he or she intends to settle the claim by means of a monetary payment, repairs, or a combination of both, without inspection. Alternatively, the contractor has the right to inspect the defects and determine the need for any repairs. If no repair is considered necessary, the contractor may serve you with a written statement explaining his or her reasons for refusing to fix the defect.

¹ Fact sheet came directly from <http://ocp.ga.gov/consumer-topics/right-to-repair-act> (June 15, 2017).

Are there any requirements concerning inspection of my property?

If the contractor proposes inspection of your home, you must provide access within 30 days. If the contractor decides to fix the defect, he or she must serve you within 14 days of completion of the inspection with a written offer to do one of the following:

- Fix the defect fully or partially, at no cost to you;
- Settle by monetary payment; or
- Settle by a combination of the two.

What is the next step if the contractor responds with an offer to fix the problem?

If you decide to accept the contractor's offer, you must serve the contractor with your written acceptance within 30 days of the offer. If you do not respond to the offer, it is deemed that you have legally accepted it, and you must provide the contractor prompt access to your home to make the necessary repairs.

May I reject the contractor's offer?

Yes; you would need to serve the contractor with a written notice of rejection that explains your reasons in detail. If the contractor is represented by an attorney, you must also serve this written notice on the attorney. The contractor may, within 15 days of your rejection, make a supplemental offer to fix or pay for the defect, which you have the option of rejecting as well. However, if you later file a lawsuit, the court may take into consideration any reasonable offers that the contractor has made previously. If it is determined that you rejected a reasonable offer, any legal remedy to you will be limited, and you cannot recover any attorney's fees you incurred after the rejection.

When can I file a lawsuit?

If you reject a settlement offer, or the contractor has either refused to fix the defect(s) or failed to respond to you within 30 days, you may file a lawsuit. You may also sue if the contractor agrees to make monetary payment or to fix the defect and then fails to do so.

How does this process differ for the owner of a condominium?

The law contains very specific provisions that apply to condominium owners. Among them, before any litigation may take place, each unit owner must agree in writing and a majority of owners must vote their approval, after representatives of the association have tried in good faith to work out the problem with the contractor and the requirements for any testing of construction-related damage have been met.

What if a repair is not to my satisfaction, or the defect reappears later?

The statute is silent on these questions, but it does state that, once a contractor fixes the defect identified in the initial notice of claim in fulfillment of the terms of his offer to do so, you may not file a lawsuit based on the same defect. If the repair did not fulfill the

terms of the offer, it appears that you may not be barred from filing a lawsuit or starting the notice process over again.

What if I do not complete all of these steps?

Even though the instructions may appear lengthy, failure to follow the procedures laid out in the law will affect your ultimate ability to pursue your claim. It could be well worth your time and effort to see the process through to completion.

If you have further questions about Right to Repair under Georgia law, please contact us for assistance. If your residence is in Alabama, please refer to the other fact sheet on that topic.



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