

Alberta's mandatory home warranty legislation finally takes effect Feb. 1

By Otiena Ellwand, Edmonton Journal January 29, 2014



On Feb. 1, Alberta's New Home Buyer Protection Act comes into effect. It requires all home builders to provide warranty coverage on new homes built in the province. Jason Yarmuch is president and founder of Blanket Home Ltd. in Edmonton, Jan. 27, 2013.

Photograph by: Bruce Edwards , Edmonton Journal

EDMONTON - Sheldon Johnston has heard many horror stories of dream houses gone wrong, of gaps between dry wall and light fixtures, faulty windows, lousy wiring and worst of all, a hole in a new foundation that was not covered by warranty.

“Almost every situation we have where we’re dealing with new construction, and that’s a lot, we have an issue,” said Johnston, a broker and blogger for Liv Real Estate in Edmonton. “Part of that is (buyers have) been oversold or they did not understand that these are built by people.

They're building their dream home and they expect everything to be perfect, but the reality is somewhat different.”

It's not a surprise then that the home building industry, including contractors and renovators, has ranked in the top 10 for most complaints received by the Better Business Bureau of Edmonton for the past five years. In 2013 alone, the bureau fielded more than 43,000 inquiries related to home builders and 168 complaints were filed. There were 14,689 new homes built in Edmonton during the same period.

The majority of those complaints had to do with warranties, said Ron Mycholuk, spokesman for BBB Edmonton.

The Alberta government focused attention on the issue in 2008, when Progressive Conservative MLA Thomas Lukaszuk sounded a call to address shoddy workmanship and building envelope problems that were promoting mould and rot in relatively new homes and condos. The report called for immediate action to protect homeowners and enhance industry compliance with building codes and regulations. The file passed through the hands of five cabinet ministers and numerous stakeholders over more than five years.

The resulting legislation— Alberta's New Home Buyer Protection Act— which will require all home builders to provide warranty coverage on new homes built in the province, finally comes into effect on Saturday.

When the long-delayed plan was announced in October 2012, then Municipal Affairs Minister Doug Griffiths touted it as the strongest legislation in the country, though it is much the same as British Columbia's plan, which has been in effect since 1999. The only other provinces with mandatory warranty legislation are Quebec, Ontario and Manitoba.

The Alberta government claims that making warranties mandatory will protect consumers and improve the quality of new homes, but some critics say it's a cash grab that will squeeze small home builders out of the market and ultimately raise the price of new homes.

Under the new legislation, all home builders, with the exception of owner-builders, have to buy a warranty, estimated at \$1,700 to \$2,000 on an average home, before being eligible for a building permit. Warranties must be purchased for single-family homes, condos, modular and mobile homes, as well as recreational properties like cottages. Warranties are available from private firms.

Builders also have to register each property online for \$95, creating a public record of the status of the warranty for future buyers. The registry will be managed by the government's New Home Buyer Protection Office.

The standardized warranty terms include protection for a minimum of one year on labour and materials, two years for plumbing and electrical systems and five years for building envelope protection against water damage. While most home builders already provide those basic

warranties, the major change is a doubling of coverage term on major structural parts from five to 10 years.

The minimum level of warranty coverage in Alberta is \$265,000 on a new home, while it's \$100,000 in Manitoba, \$200,000 in B.C., \$260,000 in Quebec and \$300,000 in Ontario. According to the government, the average price of a home in Alberta in January 2012 was \$342,000, including land costs.

Contravention of the act by any person or company can result in a maximum fine of \$100,000 for a first offence and \$500,000 for subsequent offences. A government-appointed registrar will oversee enforcement.

Bylane Custom Builders Ltd. is a small family-owned and operated business that builds about 40 to 50 condo units every three years. Co-owner Byron Prochnau worries the mandatory warranty program will crush the entrepreneurial spirit in the province because small builders won't be able or willing to take on the risks associated with such high claim limits over so many years.

While most of his projects already include a warranty or are self-insured, he said the new program is much more restrictive and won't solve the problem of bad workmanship.

"What other industry is subject to those kind of harsh conditions as far as warranties?" he said. "There are a lot of things out of your control after it's built that have nothing to do with what you did on the site. That's pretty punishing. That of course means builders are going to have to get paid for that risk, which is definitely going to drive the cost of housing up."

Prochnau said it would have been better if the government had made changes to the building code to address specific areas of concern, or targeted problem builders who were cutting corners.

Jason Yarmuch, founder and president of Blanket Home Warranty Ltd., doesn't expect it will benefit his business either, given that the government says 80 per cent of home builders already have warranties. Nor does he expect the "sour stories" to disappear from the news now that warranties are mandatory.

Yarmuch sees the program as "a band-aid on the industry," one that will be most detrimental to "small companies paving the way."

"Nine and half years down the line there becomes a structural problem, is it really the builder's responsibility or he's at fault for that?" Yarmuch said. "That's tough, those warranties are pretty steep and he's on the hook personally for \$265,000 now in coverage."

But the association representing home builders in Canada said Alberta's warranty legislation merely levels the playing field for the entire industry. For more than 20 years, Alberta members of the Canadian Home Builders' Association have been required to provide warranties, so the new home program will have little impact on the association's 400 builder-members. But not every home builder is a CHBA member.

“Some people have been able to get away without providing that consumer protection and obviously they can charge a lower price,” said Jim Rivait, chief executive officer of the CHBA Alberta. “Workers’ Compensation Board protects your workers; the warranty protects your customer. If you get away without paying those, you can offer your product at a lower price.

“What this does is create a level playing field where everyone has the same requirements.”

With files from Darcy Henton, Calgary Herald