

Statutory New Home Warranties

What defects are covered by the statutory warranty?

Minnesota law provides statutory warranties that apply to new homes for a certain period of time after they are built ([Minn. Stat. ch. 327A](#)). There are three different warranty periods covering three different types of defects when those defects are caused by failure to comply with the State Building Code.

- For one year, the home must be free of defects caused by faulty workmanship or materials.
- For two years, the home must be free of defects caused by faulty installation of heating, cooling, electrical, or plumbing systems.
- For ten years, the home must be free of “major construction defects.”

Separate statutory warranties apply to certain home improvements, and those warranties are also found in [chapter 327A](#).

What is the remedy if the warranty is breached?

The consumer may be able to recover in court against the vendor (usually the home builder) for the breach of the warranty, and can recover damages limited to the difference between the home’s value with and without the defect, or the amount needed to repair the defect. These statutory warranties are also passed along to subsequent purchasers of the home, but the time limits remain the same.

What does a consumer do if there is a defect?

In order to protect the right to recover under the warranty, the consumer must first notify the vendor of the defect in writing within six months of discovering it or of the time when they should have discovered it, whichever is earlier. The owner must also allow an inspection for the purposes of preparing an offer to repair the alleged loss or damage. Within 15 days of completion of this inspection, the vendor must provide the homeowner with a written offer to repair. The statute lays out minimum requirements for what must be contained in this offer.

If the parties are unable to agree on a scope of repair work, the issue must be referred to the home warranty dispute resolution process contained in statute. A buyer cannot file a lawsuit in district court until either the earlier one of two events occurs and the parties have completed the home warranty dispute resolution process, or 60 days after the written offer of repair is provided to the owner.

The next step would be bringing an action in court. The breach would still have had to occur during the warranty period in order for the remedy to be available, but the consumer can file the action outside the warranty period, provided the action is filed within two years of when the consumer discovers the breach (e.g., if the consumer doesn’t discover a hidden defect until after the warranty period has run). This is in addition to the requirement mentioned above that the homeowner notify the vendor within six months of discovering the breach.

Therefore, the homeowner has two separate time limits to deal with after discovering a defect: to notify the vendor within six months and to bring any action in court within two years.

What obligations does the consumer have?

In addition to complying with the relevant time limits for giving notice and filing the action, the consumer must care for the home reasonably so as not to cause damage by negligence or by improper or inadequate maintenance, as these types of damage are not covered. The consumer must also act to minimize any damage that does occur.

What is a “major construction defect” that triggers the ten-year warranty period?

The statute defines a “major construction defect” as “actual damage to the load-bearing portion of the dwelling . . . including damage due to subsidence, expansion or lateral movement of the soil, which affects the load-bearing function and which vitally affects or is imminently likely to vitally affect use of the dwelling or the home improvement for residential purposes.” It excludes damage due to windstorms, hail, floods, and other natural disasters.

Do the statutory warranties override other warranty provisions?

No. The law provides that the statutory warranties are in addition to any other warranties that the parties may have agreed to in their contracts or are otherwise provided by law.

Can the statutory warranties be waived by agreement?

The statutory warranties can be waived only where very specific requirements are followed and where, in essence, the vendor provides a substantially similar warranty by agreement. Therefore, the obligation to provide essentially the level of protection called for by statute cannot be waived.

For a major construction defect that is known when the sale is made, the parties can waive the protection as to that specific defect, if:

- it is first disclosed orally;
- it is conspicuously disclosed in the agreement;
- its impact on the value of the home has been appraised and agreed to by the parties; and
- a separate waiver is executed for each known major defect.

For more information: Contact legislative analyst Andrew Biggerstaff at andrew.biggerstaff@house.mn.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.