Georgia's Notice and Opportunity to Repair Construction Defects

- Not officially in statutory form – was Senate Bill 563 – signed by GA governor on 5/13/04
- "Dwelling" includes single-family house, duplex, or a multifamily unit designed for residential use in which title to each individual unit is transferred to the owner under a condominium or cooperative system and shall include common areas and improvements owned or maintained by an association or members of an association – 8-2-36(6)
- If claimant files action before first complying with these requirements, court shall stay the action until the claimant has complied with the requirements – 8-2-37
- Insurer paying claim shall be subrogated to rights of claimant to whom amounts were paid – 8-2-40(b)
- Upon entering into sales contract, contractor shall provide notice to each homeowner of contractor's right to cure a defect before commencement of litigation – 8-2-41(a) – Notice shall be substantially similar to 8-2-41(b)
- 8-2-42(e) explains the slightly different process for claims surrounding common elements or limited common elements owned or maintained by an association

	Claimant	Contractor
Notice of claim	Shall serve written notice of claim on contractor at least 90 days before initiating action – 8-2-38(a)	Within 30 days of notice of claim, contractor must serve written response on claimant
Contractor response	Must serve response to C/S offer within 10 days of receipt of offer – 40-59-850(B)	Response shall include: offers to settle by monetary payment, repairs, or both, without inspection; or propose to inspect dwelling – 8-2-38(b)(1-2)
Contractor wholly rejects claim or does not respond	May bring action without further notice – 8-2-38(c)	
Claimant rejects settlement offer	Must provide written notice of rejection to contractor. Notice must include: reason for rejection – either omits reference to any portion of claim or is unreasonable – 8-2-38(d)	
Proposal for inspection	Shall provide contractor with prompt and reasonable access to dwelling within 30 days of receiving proposal – 8-2-38(e)	
If destructive testing required		Must give claimant advance notice of such destructive testing and return dwelling to its pretesting condition – 8-2-38(e)
Upon completion of inspection		Shall serve claimant within 14 days following completion of inspection: written offer to fully or partially remedy defect at no cost to claimant; written offer to settle by monetary payment; written offer to include combination of repairs and monetary payment; or written rejection of claim – 8-2-38(f)(1-4)

	Claimant	Contractor
Claimant rejects Contractor's offer	Must serve written notice of rejection on contractor to include reasons for rejection – 8-2-38(i)	Within 15 days of receipt of rejection, may make supplemental offer of repair, monetary payment or both – 8-2-38(j)
Claimant rejects supplementary offer	Must serve written notice of rejection on contractor to include reasons for rejection – 8-2-38(k)	
Claimant rejects reasonable offer	May not recover an amount in excess of: FMV of offer or actual cost of repairs; or amount of monetary offer – 8-2-38(l) May not recover costs or attorney fees	
Claimant accepts offer to remedy	Must serve contractor with written notice of acceptance within reasonable time but no later than 30 days after offer was received – 8-2-38(m) Must provide contractor with prompt and unfettered access to dwelling to perform and complete by timetable in offer	If no response from claimant on offer, contractor's offer deemed accepted – 8-2-38(m)
Claimant accepts offer and contractor fulfills offer	Barred from bringing action for claim described in notice of claim – 8-2-40(a)(1)	Deemed, for insurance purposes, to have been legally obligated to make repairs or monetary payment as if claimant had recovered judgment against contractor – 8-2-40(a)(2)

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