Ohio's Notice and Opportunity to Repair Construction Defects

- "Residential Building" means a structure that is a one-family, two-family, or three-family dwelling house or a dwelling unit within that structure, any accessory structures incidental to that dwelling house, and a unit in a condominium development in which the owner holds title to that unit. Includes any structure used as a model to promote the sale of a similar dwelling house. ORC §1312.01(A)
- "Residential Contractor" means a person or entity who, for pay, enters into a contract with an owner for the construction or the substantial rehabilitation of a residential building and who has primary responsibility for the construction or substantial rehabilitation of a residential building.
- Only applies to an owner and a residential contractor who enters into a contract for construction or substantial rehabilitation of a residential building. ORC §1312.02
- Contractor shall provide owner with notice of contractor's right to offer to resolve any alleged defect. Notice may be part of the contract or a separate document, but it must be given at the time the owner signs the contract and be in substantially the same form as provided in ORC §1312.03.
- Delivery of notices may be by mail, telegram, in person, or sent by any means contractor has indicated communications may be sent, including facsimile and email. ORC §1312.04(A)
- If contractor files mechanics lien or commences any sort of arbitration proceeding or legal action against owner, Chapter 1312 does not apply and owner may counterclaim or commence filing an action. ORC §1312.04(D)
- All applicable statutes of limitations are tolled from the time the owner sends the notice of defect. ORC §1312.08(A)
- If owner files proceeding/action without complying with Chapter 1312, the court or arbitrator must dismiss action without prejudice. ORC §1312.08(B)
- Does not apply to any civil action in tort alleging personal injury or wrongful death resulting from defect. ORC§1312.08(C)

	Owner	Residential Contractor (Contractor)
Notice of defect	Shall serve written notice of construction defect to contractor at least 60 days before commencing proceedings or filing an action – ORC §1312.04(A) Notice must contain: • Itemization and description of defects • Documentation of defect prepared by person who inspected building for owner • Name, address, phone number of owner and contractor • Address of building subject to claim ORC §1312.04(B)	May request owner to provide description of cause and nature of defect and extent of repairs necessary if owner has knowledge of such things – ORC §1312.04(C)
Contractor's response to notice of defect		Shall provide owner with good faith written response within 21 days after owner mailed or delivered notice of defect. Response must offer: • Inspection of building; • Compromise and settlement without inspection; OR • Dispute of claim ORC §1312.05(A)

	Owner	Residential Contractor (Contractor)
Contractor fails to respond	Deemed to have complied with Chapter 1312 and may commence filing an action – ORC §1312.05(B)	
Owner rejects contractor's offer	Must give contractor written notice of rejection within 14 days after receiving offer. Notice must include reason for rejection – ORC §1312.05(C)(1) After notice of rejection is sent, owner may commence filing action – ORC §1312.05(C)(2)	
Owner accepts offer to inspect	Must provide contractor with written notice within 14 days – ORC §1312.06(A) Must allow contractor reasonable access to building during normal business hours – ORC §1312.06(A)	Must inspect building within 14 days after owner accepts offer – ORC §1312.06(A)
After inspection	May proceed with commencing action if: • Contractor does not inspect within 14 days of owner's acceptance • Contractor does not provide written response • Contractor responds he/she does not intend to remedy the defects • Contractor fails to remedy as described ORC §1312.06(C)	Within 10 days after inspection, must provide owner with: • Written offer to remedy at no cost to owner and must include inspection report, prediction for additional work and timetable for completion; • Written offer to settle; or • Written statement asserting contractor does not intend to remedy defects ORC §1312.06(B)
Owner accepts offer to compromise/settle or offer to remedy or offer to settle and contractor fulfills offer	Barred from bringing action or commencing arbitration proceedings – ORC §1312.06(E)	

FCCI® INSURANCE GROUP

PROTECTING BUSINESS, PROPERTY AND PEOPLE

The information in this document is provided for informational purposes only and is not offered as legal or professional advice by FCCI Services, Inc. and its affiliates (FCCI). The information contained in this document is not a substitute for obtaining legal or professional advice from your own independent legal counsel. FCCI does not guarantee the information contained in this document is error-free or is the latest version of the state's statute(s). FCCI urges you to consult an attorney in the relevant jurisdiction as to matters of interpretation and application of the relevant statutes.