



Forced Arbitration Injustice Repeal (FAIR) Act

Legislation has been introduced in the United States Senate and the House of Representatives that would effectively eliminate the use and availability of predispute arbitration agreements in residential construction contracts.

The Forced Arbitration Injustice Repeal Act (H.R. 963/S. 505) prohibits parties from agreeing in advance to resolve future employment, consumer, antitrust, and civil rights disputes by arbitration. Under current law, parties are allowed to agree in their contract to resolve future disputes with arbitration as an alternative to litigation. If the FAIR Act becomes law, parties would only be able to enter into an agreement to arbitrate *after* a dispute arises.

NAHB supports the use of Alternative Dispute Resolution, including, but not limited to, mandatory, binding, pre-dispute arbitration agreements in residential construction contracts. This is often the most rapid, fair and cost-effective means to resolving disputes – for the both the builder and buyer – arising out of the construction and/or sale of the home. NAHB opposes the FAIR Act because it denies builders and their customers the right to negotiate the terms of their contract, including whether to agree to predispute arbitration.

For the home buyer, the use of arbitration resolves disputes in a quick, fair and less costly manner than litigation. Due to the higher costs of litigation, homeowners may be left with insufficient funds to perform repairs once legal fees and costs are deducted from their recoveries.

Additionally, precluding the use of predispute arbitration could have the unintended effect of harming housing affordability if the builder must account for the uncertainty of litigation to resolve potential disputes.

To the extent there are legitimate issues with the use of predispute arbitration in residential construction contracts, Congress should focus specifically on those problems.

TAKE ACTION

Oppose H.R. 963/S. 505, the Forced Arbitration Injustice Repeal (FAIR) Act.

NAHB Government Affairs Contacts:

Alex Strong

Director, Federal Government Affairs

[901-210-4972](tel:901-210-4972) | astrong@nahb.org