



Legislative Council Staff

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Fiscal Note

Drafting Number:	LLS 24-0290	Date:	February 14, 2024
Prime Sponsors:	Sen. Zenzinger; Coleman Rep. Bird	Bill Status:	Senate Local Govt. & Housing
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Bill Topic: **RIGHT TO REMEDY CONSTRUCTION DEFECTS**

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> TABOR Refund	<input type="checkbox"/> Statutory Public Entity

The bill modifies the Construction Defect Action Reform Act and establishes a right to remedy construction defect claims. It minimally increases state revenue and expenditures starting in FY 2024-25.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

The bill modifies requirements to initiate a construction defect action and clarifies the conditions under which a claim is settled and released under the Construction Defect Action Reform Act.

Right to remedy. Current law allows construction professionals to settle construction defect claims by either paying an agreed upon sum or remedying the claimed defect. The bill establishes a right to remedy for construction professionals to remediate work on a construction defect claim. Completion of remedial work settles and releases a claim, and all future claims related to the construction defect are limited to the remedial work.

Homeowner associations. Current law allows a construction defect action to be initiated by a majority vote of homeowner association (HOA) unit owners. The bill increases a simple majority to a two-thirds vote and requires an HOA to obtain written and signed consent from each unit owner. Additionally, when an HOA partakes in construction defect litigation on behalf of itself or unit owners, the bill requires the alleged construction defect to affect HOA real estate that is owned by the association or by all members. If the construction defect does not affect real estate owned by the association, the HOA and each claimant are subject to legal proceedings and resolution.

General provisions. The bill clarifies that a person who has had a claim brought on their behalf is considered a claimant and expands additional forms of binding alternative dispute resolution. When a claimant seeks damages for failure to comply with building codes or industry standards, the bill requires actual property damage to be the result of a building code violation and requires the risk of injury, death, or threat to life, health, or safety to be imminent and unreasonable.

State Revenue

Starting in FY 2024-25, the bill may increase revenue to the Judicial Department from an increase in civil case filings fees to the extent that construction professionals invoke the right to remedy, but fail to complete remedial work. The fiscal note assumes that construction professionals will comply with the law and any increase will be minimal. Revenue from filing fees is subject to TABOR.

State Expenditures

The bill increases workload in the Department of Regulatory Agencies (DORA) and the Judicial Department beginning in FY 2024-25, as described below.

Department of Regulatory Agencies. The HOA Information and Resource Center in the DORA serves as a resource for consumers to understand rights and responsibilities under current law. The center also registers common interest communities like HOAs and other housing cooperatives, and tracks complaints. Workload may increase for the center to respond to questions from HOAs and residents. This workload is expected to be minimal and no change in appropriations is required.

Judicial Department. Trial courts in the Judicial Department may experience an increase in workload to the extent additional civil cases are filed under the bill. The fiscal note assumes that construction professionals will comply with the law and any increase will be minimal.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to actions and notices of claims received on or after the effective date.

State and Local Government Contacts

Judicial

Local Affairs

Regulatory Agencies

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).