



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Fiscal Note

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<b>Drafting Number:</b>	LLS 24-0713	<b>Date:</b>	February 14, 2024
<b>Prime Sponsors:</b>	Rep. Parenti; Bacon	<b>Bill Status:</b>	House Judiciary
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<b>Bill Topic:</b>	<b>PROTECTIONS FOR REAL PROPERTY OWNERS</b>
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<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> TABOR Refund	<input type="checkbox"/> Statutory Public Entity

The bill modifies construction defect litigation standards and consumer protections for residential property owners. It minimally increases state revenue and state and local expenditures starting in FY 2024-25.

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**Appropriation Summary:** No appropriation is required.

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

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## Summary of Legislation

The bill modifies consumer protections for residential property owners related to construction defect litigation standards and requirements. Specifically, the bill:

- increases the statutory limitation period for construction defect actions from six years to ten years;
- allows a claim for relief to arise at the time that either the physical occurrence of the defect or the cause of the defect is discovered;
- voids any contractual provision that limits a property owner's right to bring or join a legal action against a construction professional; and,
- voids any homeowner association (HOA) governing document that conflicts with the bill's provisions.

The bill makes limiting a consumer's legal rights, remedies, or damages in a contractual provision or express waiver a deceptive trade practice under the Colorado Consumer Protection Act. A claimant who prevails in a construction defect civil suit is awarded prejudgment interest in addition to actual damages.

## **State Revenue**

Starting in FY 2024-25, the bill may increase state revenue from civil penalties and court filing fees by a minimal amount.

**Civil penalties.** Under the Colorado Consumer Protection Act, a person committing a deceptive trade practice may be subject to a civil penalty of up to \$20,000 for each violation. Additional penalties may be imposed for subsequent violations of a court order or injunction. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

**Filing fees.** The bill may increase revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

## **State Expenditures**

The bill minimally increases workload in the Judicial Department, the Department of Law, and DORA beginning in FY 2024-25, as described below.

**Judicial Department.** The bill increases workload in the trial courts in the Judicial Department in two ways. First, the bill will likely increase construction defect related litigation filed with the courts, as the bill removes or eases restrictions on these type of actions. Second, additional cases may be filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that construction professionals and HOAs will abide by the law and that any violation of the legislation will result in minimal number of new deceptive trade practice cases. The fiscal note assumes that this work can be accomplished within existing resources and that no change in appropriations is required.

**Department of Law.** Workload in the Department of Law will minimally increase to the extent that deceptive trade practice complaints are filed. The department will review complaints under the bill and prioritize investigations as necessary within the overall number of deceptive trade practice complaints and available resources.

**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, tracks complaints, and notifies HOAs of statutory changes. 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.

## **Local Government**

Similar to the state, to the extent district attorneys receive deceptive trade practice complaints related to the new deceptive trade practice under the bill, workload will increase to investigate complaints and seek relief when appropriate. It is assumed most such cases will be handled at the state level by the Attorney General.

## **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 causes of action arising on or after the effective date.

## **State and Local Government Contacts**

Counties	Judicial	Law
Local Affairs	Regulatory Agencies	

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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](#).