



**Legislative Council Staff**

*Nonpartisan Services for Colorado's Legislature*

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**Revised Fiscal Note**

(replaces fiscal note dated February 14, 2024)

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<b>Drafting Number:</b>	LLS 24-0290	<b>Date:</b>	April 10, 2024
<b>Prime Sponsors:</b>	Sen. Zenzinger; Coleman Rep. Bird	<b>Bill Status:</b>	Senate Second Reading
		<b>Fiscal Analyst:</b>	Brendan Fung   303-866-4781 brendan.fung@coleg.gov

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**Bill Topic:**                    **RIGHT TO REMEDY CONSTRUCTION DEFECTS**

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<b>Summary of Fiscal Impact:</b>	<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 requirements for HOAs to bring a construction defect action. It minimally increases state revenue and expenditures starting in FY 2024-25.

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

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**Fiscal Note Status:**                    This revised fiscal note is provided pursuant to Senate Rule 25(e) and reflects amendments L.099 adopted during Senate Second Reading.

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**Summary of Legislation**

The bill modifies requirements for claimants and homeowner associations (HOA) to initiate a construction defect action under the Construction Defect Action Reform Act.

**Claimants.** Current law permits a claimant to bring a construction defect action if the failure causes a risk of bodily injury or death, or a threat to the life, health or safety of the occupants of the residential property. The bill modifies the cause to be a verifiable danger to the occupants.

Additionally, the bill adds that an action may be brought if the failure causes an actual failure or lack of capacity to perform the intended function or purpose of the building component.

**Homeowner associations.** Current law allows a construction defect action to be initiated by a majority vote of HOA unit owners. The bill increases a simple majority to 60 percent and requires an HOA to obtain written consent from each unit owner voting to proceed that they received certain disclosures and acknowledge that they must disclose known defects upon sale of the property. Additionally, when an HOA partakes in construction defect litigation on behalf of two or more unit owners, the bill stipulates that each claimant is subject to legal proceedings and resolution.

## **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 claimants or HOAs bring action against construction professionals. 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 civil actions occurring and notices of claims received on or after the bill's effective date.

## **State and Local Government Contacts**

Judicial

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](#).