

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

March 21, 2024
Date

Committee on Local Government & Housing.

After consideration on the merits, the Committee recommends the following:

SB24-106 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 5, line 22, strike "STATUTORY".
- 2 Page 6, line 19, before "MUST" insert "AND A NOTICE THAT THE
- 3 CONSTRUCTION PROFESSIONAL IS INVOKING THE RIGHT TO REMEDY".
- 4 Page 7, line 10, strike "INVOKED," and substitute "INVOKED AND
- 5 ACCEPTED BY THE CLAIMANT,".
- 6 Page 7, line 18, strike "OR".
- 7 Page 7, line 19, after "REMEDY," insert "OR IF THE CLAIMANT DOES NOT
- 8 ACCEPT A RIGHT TO REMEDY OFFER,".
- 9 Page 8, line 18, strike "REMEDY AND" and substitute "REMEDY, THE RIGHT
- 10 TO REMEDY IS ACCEPTED BY THE CLAIMANT, AND THE CONSTRUCTION
- 11 PROFESSIONAL".
- 12 Page 8, strike lines 25 through 27 and substitute:

13 **"SECTION 4.** In Colorado Revised Statutes, 38-33.3-303.5,
14 **amend** (1)(d)(I)(A) and (1)(d)(III) introductory portion as follows:
15 **38-33.3-303.5. Construction defect actions - disclosure -**
16 **approval by unit owners - definitions - exemptions.** (1) (d) **Approval**
17 **by unit owners - procedures.** (I) (A) Notwithstanding any provision of
18 law or any requirement in the governing documents, the executive board
19 ~~may~~ HAS THE RIGHT TO initiate the construction defect action only if
20 authorized within the voting period by owners of units to which a
21 ~~majority of~~ SIXTY PERCENT OF THE votes in the association are allocated.

1 ~~Such~~ UNIT OWNERS VOTING IN FAVOR OF PROCEEDING WITH A
2 CONSTRUCTION DEFECT ACTION MUST ALSO ACKNOWLEDGE IN WRITING
3 THAT THE UNIT OWNER HAS RECEIVED THE DISCLOSURES REQUIRED UNDER
4 SECTION 38-33.3-303.5 (1)(c) AND THAT THE UNIT OWNER HAS BEEN
5 INFORMED OF THE UNIT OWNER'S OBLIGATION UNDER COLORADO LAW TO
6 DISCLOSE KNOWN DEFECTS UPON SALE OF THE PROPERTY. THE approval
7 is not required for an association to proceed with a construction defect
8 action if the alleged construction defect pertains ONLY to a facility that is
9 intended and used for nonresidential purposes and if the cost to repair the
10 alleged defect does not exceed fifty thousand dollars. ~~Such~~ THE approval
11 is not required for an association to proceed with a construction defect
12 action when the association is the DIRECT contracting party for the
13 performance of labor or purchase of services or materials.

14 (III) **Vote count - exclusions.** For purposes of calculating the
15 required majority vote under this subsection (1)(d) only, the following
16 votes are excluded:".

17 Page 9, strike lines 1 through 10.

18 Page 10, line 17, strike "No separate cause of action. THIS" and
19 substitute "**Applicability - no separate cause of action.** (1) THIS PART
20 8 DOES NOT APPLY TO A MUNICIPALITY, AS DEFINED IN SECTION 31-1-101,
21 OR A COUNTY, AS DEFINED IN SECTION 30-6-100.3, IF EITHER IS ACTING IN
22 ITS GOVERNMENTAL CAPACITY.

23 (2) THIS".

24 Page 10, strike lines 21 through 27 and substitute:

25 "**38-33.3-302. Powers of unit owners' association.** (3) (c) IF AN
26 ASSOCIATION TAKES AN ACTION UNDER SUBSECTION".

27 Page 11, strike lines 2 through 10 and substitute "OR MORE UNIT OWNERS,
28 EACH CLAIM BROUGHT ON BEHALF OF A UNIT OWNER IS SUBJECT TO EACH
29 DEFENSE, LIMITATION, CLAIM PROCEDURE, AND ALTERNATIVE DISPUTE
30 RESOLUTION PROCEDURE THAT THE UNIT OWNER WOULD BE SUBJECT TO
31 IF THE UNIT OWNER HAD BROUGHT THE CLAIM.".

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