Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 24-0901	**Date:**	May 29, 2024	
Prime Sponsors:	Sen. Lundeen	**Bill Status:**	Postponed Indefinitely	
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Bill Topic:	**CONSTRUCTION DEFECT ACTION PROCEDURES**	

Summary of Fiscal Impact:	⊠ State Revenue	☐ State Transfer	☐ Local Government
	⊠ State Expenditure	☐ TABOR Refund	☐ Statutory Public Entity
	The bill would have modified requirements for HOAs to initiate a construction defect action and updated the Construction Defect Action Reform Act. It would have minimally increased state revenue and expenditures starting in FY 2024-25.		

Appropriation Summary:	No appropriation was required.

Fiscal Note Status:	The final fiscal note reflects the introduced bill. This bill was postponed indefinitely by the Senate Local Government and Housing Committee on April 30, 2024; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

Current law requires a homeowner association (HOA) to meet with unit owners and hold a vote before initiating legal action concerning an alleged construction defect. A majority of unit owners, excluding nonresponsive unit owners, must approve the legal action and an HOA may amend or supplement the proposed action without unit owner consent after the vote.

The bill updates a simple majority to a two-thirds vote and requires an HOA to notify unit owners of amendments to the proposed legal action before reobtaining their signed approval. A list of nonresponsive unit owners must be provided to the construction professional whom the claim is being filed against, and a new vote may be ordered by the presiding judge after reviewing the extent to which an HOA attempted to contact nonresponsive unit owners.

Additionally, the bill adds disclaimers to the Construction Defect Action Reform Act regarding express waivers, and removes a construction professional's liability for construction defect claims caused by a licensed design professional.

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 challenge the status and exclusion of nonresponsive unit owners in a vote to initiate a construction defect action. The fiscal note assumes that HOAs 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 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 HOAs 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 legal actions commenced on or after the effective date.

State and Local Government Contacts

Judicial   Law   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.