

## SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Jaquez Lewis

1 Amend the Zenzinger floor amendment (SB106\_L.099), page 3, after line  
2 40 insert:

3 "SECTION 4. In Colorado Revised Statutes, **add** 13-20-809 as  
4 follows:

5 "13-20-809. **Repeal of part.** THIS PART 8 IS REPEALED, EFFECTIVE  
6 SEPTEMBER 1, 2027."

7 Renumber succeeding sections accordingly.

8 Page 4, after line 5 insert:

9 "SECTION 6. In Colorado Revised Statutes, **add** part 13 to  
10 article 20 of title 13 as follows:

11 PART 13

12 CONSTRUCTION DEFECT ACTIONS FOR  
13 PROPERTY LOSS AND DAMAGE

14 **13-20-1301. Short title.** THE SHORT TITLE OF THIS PART 13 IS THE  
15 "CONSTRUCTION DEFECT ACTION REFORM ACT OF 2026".

16 **13-20-1302. Legislative declaration.** THE GENERAL ASSEMBLY  
17 FINDS, DETERMINES, AND DECLARES THAT CHANGES IN THE LAW ARE  
18 NECESSARY AND APPROPRIATE CONCERNING ACTIONS CLAIMING DAMAGES,  
19 INDEMNITY, OR CONTRIBUTION IN CONNECTION WITH ALLEGED  
20 CONSTRUCTION DEFECTS. IT IS THE INTENT OF THE GENERAL ASSEMBLY  
21 THAT THIS PART 13 APPLY TO THESE TYPES OF CIVIL ACTIONS WHILE  
22 PRESERVING ADEQUATE RIGHTS AND REMEDIES FOR PROPERTY OWNERS  
23 WHO BRING AND MAINTAIN THESE ACTIONS.

24 **13-20-1303. Definitions.** AS USED IN THIS PART 13, UNLESS THE  
25 CONTEXT OTHERWISE REQUIRES:

26 (1) "ACTION" MEANS A CIVIL ACTION OR AN ARBITRATION  
27 PROCEEDING FOR DAMAGES, INDEMNITY, OR CONTRIBUTION BROUGHT  
28 AGAINST A CONSTRUCTION PROFESSIONAL TO ASSERT A CLAIM,  
29 COUNTERCLAIM, CROSS-CLAIM, OR THIRD-PARTY CLAIM FOR DAMAGES OR  
30 LOSS TO, OR THE LOSS OF USE OF, REAL OR PERSONAL PROPERTY OR  
31 PERSONAL INJURY CAUSED BY A DEFECT IN THE DESIGN OR CONSTRUCTION  
32 OF AN IMPROVEMENT TO REAL PROPERTY.

33 (2) "ACTUAL DAMAGES" MEANS THE FAIR MARKET VALUE OF THE  
34 REAL PROPERTY WITHOUT THE ALLEGED CONSTRUCTION DEFECT; THE  
35 REPLACEMENT COST OF THE REAL PROPERTY OR THE REASONABLE COST TO  
36 REPAIR THE ALLEGED CONSTRUCTION DEFECT, WHICHEVER IS LESS,

1 TOGETHER WITH RELOCATION COSTS AND, WITH RESPECT TO RESIDENTIAL  
2 PROPERTY, OTHER DIRECT ECONOMIC COSTS RELATED TO LOSS OF USE, IF  
3 ANY; INTEREST AS PROVIDED BY LAW; AND THE COSTS OF SUIT AND  
4 REASONABLE ATTORNEY FEES AS MAY BE AWARDBLE PURSUANT TO  
5 CONTRACT OR APPLICABLE LAW. "ACTUAL DAMAGES" AS TO PERSONAL  
6 INJURY MEANS THOSE DAMAGES RECOVERABLE BY LAW, EXCEPT AS  
7 LIMITED BY SECTION 13-20-1308 (4).

8 (3) "CLAIMANT" MEANS A PERSON OTHER THAN THE ATTORNEY  
9 GENERAL OR THE DISTRICT ATTORNEYS OF THE SEVERAL JUDICIAL  
10 DISTRICTS OF THE STATE WHO ASSERTS A CLAIM AGAINST A  
11 CONSTRUCTION PROFESSIONAL THAT ALLEGES A DEFECT IN THE  
12 CONSTRUCTION OF AN IMPROVEMENT TO REAL PROPERTY.

13 (4) "CONSTRUCTION PROFESSIONAL" MEANS AN ARCHITECT,  
14 CONTRACTOR, SUBCONTRACTOR, DEVELOPER, BUILDER, BUILDER VENDOR,  
15 ENGINEER, OR INSPECTOR PERFORMING OR FURNISHING THE DESIGN,  
16 SUPERVISION, INSPECTION, CONSTRUCTION, OR OBSERVATION OF THE  
17 CONSTRUCTION OF ANY IMPROVEMENT TO REAL PROPERTY. IF THE  
18 IMPROVEMENT TO REAL PROPERTY IS TO A COMMERCIAL PROPERTY, THE  
19 TERM "CONSTRUCTION PROFESSIONAL" ALSO INCLUDES ANY PRIOR OWNER  
20 OF THE COMMERCIAL PROPERTY, OTHER THAN THE CLAIMANT, AT THE TIME  
21 THE WORK WAS PERFORMED. AS USED IN THIS SUBSECTION (4),  
22 "COMMERCIAL PROPERTY" MEANS PROPERTY THAT IS ZONED TO PERMIT  
23 COMMERCIAL, INDUSTRIAL, OR OFFICE TYPES OF USE.

24 (5) "NOTICE OF CLAIM" MEANS A WRITTEN NOTICE SENT BY A  
25 CLAIMANT TO THE LAST-KNOWN ADDRESS OF A CONSTRUCTION  
26 PROFESSIONAL AGAINST WHOM THE CLAIMANT ASSERTS A CONSTRUCTION  
27 DEFECT CLAIM THAT DESCRIBES THE CLAIM IN REASONABLE DETAIL  
28 SUFFICIENT TO DETERMINE THE GENERAL NATURE OF THE DEFECT,  
29 INCLUDING A GENERAL DESCRIPTION OF THE TYPE AND LOCATION OF THE  
30 CONSTRUCTION THAT THE CLAIMANT ALLEGES TO BE DEFECTIVE AND ANY  
31 DAMAGES CLAIMED TO HAVE BEEN CAUSED BY THE DEFECT.

32 **13-20-1304. List of defects required.** (1) IN ADDITION TO THE  
33 NOTICE OF CLAIM REQUIRED BY SECTION 13-20-1305, IN EVERY ACTION  
34 BROUGHT AGAINST A CONSTRUCTION PROFESSIONAL, THE CLAIMANT  
35 SHALL FILE WITH THE COURT OR ARBITRATOR AND SERVE ON THE  
36 CONSTRUCTION PROFESSIONAL AN INITIAL LIST OF CONSTRUCTION DEFECTS  
37 IN ACCORDANCE WITH THIS SECTION.

38 (2) THE INITIAL LIST OF CONSTRUCTION DEFECTS MUST CONTAIN  
39 A DESCRIPTION OF THE CONSTRUCTION THAT THE CLAIMANT ALLEGES TO  
40 BE DEFECTIVE. THE INITIAL LIST OF CONSTRUCTION DEFECTS MUST BE  
41 FILED WITH THE COURT AND SERVED ON THE DEFENDANT WITHIN SIXTY  
42 DAYS AFTER THE COMMENCEMENT OF THE ACTION OR WITHIN SUCH  
43 LONGER PERIOD AS THE COURT IN ITS DISCRETION MAY ALLOW.

1           (3) THE INITIAL LIST OF CONSTRUCTION DEFECTS MAY BE  
2 AMENDED BY THE CLAIMANT TO IDENTIFY ADDITIONAL CONSTRUCTION  
3 DEFECTS AS THEY BECOME KNOWN TO THE CLAIMANT. IN NO EVENT SHALL  
4 THE COURT ALLOW THE CASE TO BE SET FOR TRIAL BEFORE THE INITIAL  
5 LIST OF CONSTRUCTION DEFECTS IS FILED AND SERVED.

6           (4) IF A SUBCONTRACTOR OR SUPPLIER IS ADDED AS A PARTY TO AN  
7 ACTION UNDER THIS SECTION, THE CLAIMANT MAKING THE CLAIM AGAINST  
8 THE SUBCONTRACTOR OR SUPPLIER SHALL FILE WITH THE COURT AND  
9 SERVE ON THE DEFENDANT AN INITIAL LIST OF CONSTRUCTION DEFECTS IN  
10 ACCORDANCE WITH THIS SECTION WITHIN SIXTY DAYS AFTER SERVICE OF  
11 THE COMPLAINT AGAINST THE SUBCONTRACTOR OR SUPPLIER OR WITHIN  
12 SUCH LONGER PERIOD AS THE COURT IN ITS DISCRETION MAY ALLOW. IN NO  
13 EVENT SHALL THE FILING OF A DEFECT LIST UNDER THIS SUBSECTION (4)  
14 DELAY THE SETTING OF THE TRIAL.

15           **13-20-1305. Notice of claim process.** (1) NO LATER THAN  
16 SEVENTY-FIVE DAYS BEFORE FILING AN ACTION AGAINST A CONSTRUCTION  
17 PROFESSIONAL, OR NO LATER THAN NINETY DAYS BEFORE FILING THE  
18 ACTION IN THE CASE OF A COMMERCIAL PROPERTY, A CLAIMANT SHALL  
19 SEND OR DELIVER A WRITTEN NOTICE OF CLAIM TO THE CONSTRUCTION  
20 PROFESSIONAL BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY  
21 PERSONAL SERVICE.

22           (2) FOLLOWING THE MAILING OR DELIVERY OF THE NOTICE OF  
23 CLAIM, AT THE WRITTEN REQUEST OF THE CONSTRUCTION PROFESSIONAL,  
24 THE CLAIMANT SHALL PROVIDE THE CONSTRUCTION PROFESSIONAL AND  
25 ITS CONTRACTORS OR OTHER AGENTS REASONABLE ACCESS TO THE  
26 CLAIMANT'S PROPERTY DURING NORMAL WORKING HOURS TO INSPECT THE  
27 PROPERTY AND THE CLAIMED DEFECT. THE INSPECTION MUST BE  
28 COMPLETED WITHIN THIRTY DAYS AFTER SERVICE OF THE NOTICE OF  
29 CLAIM.

30           (3)(a) WITHIN THIRTY DAYS FOLLOWING THE COMPLETION OF THE  
31 INSPECTION PROCESS CONDUCTED PURSUANT TO SUBSECTION (2) OF THIS  
32 SECTION, OR WITHIN FORTY-FIVE DAYS FOLLOWING THE COMPLETION OF  
33 THE INSPECTION PROCESS IN THE CASE OF A COMMERCIAL PROPERTY, A  
34 CONSTRUCTION PROFESSIONAL MAY SEND OR DELIVER TO THE CLAIMANT,  
35 BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY PERSONAL  
36 SERVICE, AN OFFER TO SETTLE THE CLAIM BY PAYMENT OF A SUM CERTAIN  
37 OR BY AGREEING TO REMEDY THE CLAIMED DEFECT DESCRIBED IN THE  
38 NOTICE OF CLAIM.

39           (b) A WRITTEN OFFER TO REMEDY THE CONSTRUCTION DEFECT  
40 MUST INCLUDE A REPORT OF THE SCOPE OF THE INSPECTION, THE FINDINGS  
41 AND RESULTS OF THE INSPECTION, A DESCRIPTION OF THE ADDITIONAL  
42 CONSTRUCTION WORK NECESSARY TO REMEDY THE DEFECT DESCRIBED IN  
43 THE NOTICE OF CLAIM AND ALL DAMAGE TO THE IMPROVEMENT TO REAL

1 PROPERTY CAUSED BY THE DEFECT, AND A TIMETABLE FOR THE  
2 COMPLETION OF THE REMEDIAL CONSTRUCTION WORK.

3 (4) UNLESS A CLAIMANT ACCEPTS AN OFFER MADE PURSUANT TO  
4 SUBSECTION (3) OF THIS SECTION IN WRITING WITHIN FIFTEEN DAYS AFTER  
5 THE DELIVERY OF THE OFFER, THE OFFER IS DEEMED TO HAVE BEEN  
6 REJECTED.

7 (5) (a) A CLAIMANT WHO ACCEPTS A CONSTRUCTION  
8 PROFESSIONAL'S OFFER TO REMEDY OR SETTLE BY PAYMENT OF A SUM  
9 CERTAIN A CONSTRUCTION DEFECT CLAIM SHALL DO SO BY SENDING THE  
10 CONSTRUCTION PROFESSIONAL A WRITTEN NOTICE OF ACCEPTANCE NO  
11 LATER THAN FIFTEEN DAYS AFTER RECEIPT OF THE OFFER. IF AN OFFER TO  
12 SETTLE IS ACCEPTED, THEN THE MONETARY SETTLEMENT MUST BE PAID IN  
13 ACCORDANCE WITH THE OFFER.

14 (b) IF AN OFFER TO REMEDY IS ACCEPTED BY THE CLAIMANT, THE  
15 REMEDIAL CONSTRUCTION WORK MUST BE COMPLETED IN ACCORDANCE  
16 WITH THE TIMETABLE SET FORTH IN THE OFFER UNLESS THE DELAY IS  
17 CAUSED BY EVENTS BEYOND THE REASONABLE CONTROL OF THE  
18 CONSTRUCTION PROFESSIONAL.

19 (6) IF NO OFFER IS MADE BY THE CONSTRUCTION PROFESSIONAL OR  
20 IF THE CLAIMANT REJECTS AN OFFER, THE CLAIMANT MAY BRING AN  
21 ACTION AGAINST THE CONSTRUCTION PROFESSIONAL FOR THE  
22 CONSTRUCTION DEFECT CLAIM DESCRIBED IN THE NOTICE OF CLAIM  
23 UNLESS THE PARTIES HAVE CONTRACTUALLY AGREED TO A MEDIATION  
24 PROCEDURE, IN WHICH CASE THE MEDIATION PROCEDURE MUST BE  
25 SATISFIED PRIOR TO BRINGING AN ACTION.

26 (7) IF AN OFFER BY A CONSTRUCTION PROFESSIONAL IS MADE AND  
27 ACCEPTED, AND IF THEREAFTER THE CONSTRUCTION PROFESSIONAL DOES  
28 NOT COMPLY WITH THE OFFER TO REMEDY OR SETTLE A CLAIM FOR A  
29 CONSTRUCTION DEFECT, THE CLAIMANT MAY FILE AN ACTION AGAINST THE  
30 CONSTRUCTION PROFESSIONAL FOR CLAIMS ARISING OUT OF THE DEFECT  
31 OR DAMAGE DESCRIBED IN THE NOTICE OF CLAIM WITHOUT FURTHER  
32 NOTICE.

33 (8) AFTER THE SENDING OF A NOTICE OF CLAIM, A CLAIMANT AND  
34 A CONSTRUCTION PROFESSIONAL MAY, BY WRITTEN MUTUAL AGREEMENT,  
35 ALTER THE PROCEDURE FOR THE NOTICE OF CLAIM PROCESS DESCRIBED IN  
36 THIS SECTION.

37 (9) AN ACTION COMMENCED BY A CLAIMANT WHO FAILS TO  
38 COMPLY WITH THE REQUIREMENTS OF THIS SECTION SHALL BE STAYED,  
39 WHICH STAY MUST REMAIN IN EFFECT UNTIL THE CLAIMANT HAS COMPLIED  
40 WITH THE REQUIREMENTS OF THIS SECTION.

41 (10) A CLAIMANT MAY AMEND A NOTICE OF CLAIM TO INCLUDE  
42 CONSTRUCTION DEFECTS DISCOVERED AFTER THE SERVICE OF THE  
43 ORIGINAL NOTICE OF CLAIM, BUT THE CLAIMANT MUST OTHERWISE

1 COMPLY WITH THE REQUIREMENTS OF THIS SECTION FOR THE ADDITIONAL  
2 CLAIMS.

3 (11) FOR PURPOSES OF THIS SECTION, ACTUAL RECEIPT BY ANY  
4 MEANS OF A WRITTEN NOTICE, OFFER, OR RESPONSE PREPARED PURSUANT  
5 TO THIS SECTION WITHIN THE TIME PRESCRIBED FOR DELIVERY OR SERVICE  
6 OF THE NOTICE, OFFER, OR RESPONSE IS SUFFICIENT DELIVERY OR SERVICE.

7 (12) EXCEPT AS PROVIDED IN SECTION 13-20-1308, A CLAIMANT  
8 SHALL NOT RECOVER MORE THAN ACTUAL DAMAGES IN AN ACTION.

9 **13-20-1306. Restriction on construction defect negligence**  
10 **claims.** (1) A CLAIMANT IS BARRED FROM ASSERTING A NEGLIGENCE  
11 CLAIM SEEKING DAMAGES FOR A CONSTRUCTION DEFECT IF THE CLAIM  
12 ARISES FROM THE FAILURE TO CONSTRUCT AN IMPROVEMENT TO REAL  
13 PROPERTY IN SUBSTANTIAL COMPLIANCE WITH AN APPLICABLE BUILDING  
14 CODE OR INDUSTRY STANDARD; EXCEPT THAT THE CLAIMANT MAY ASSERT  
15 THE CLAIM IF THE FAILURE RESULTS IN ONE OR MORE OF THE FOLLOWING:

- 16 (a) ACTUAL DAMAGE TO REAL OR PERSONAL PROPERTY;  
17 (b) ACTUAL LOSS OF THE USE OF REAL OR PERSONAL PROPERTY;  
18 (c) BODILY INJURY OR WRONGFUL DEATH; OR  
19 (d) A RISK OF BODILY INJURY OR DEATH TO, OR A THREAT TO THE  
20 LIFE, HEALTH, OR SAFETY OF, THE OCCUPANTS OF THE RESIDENTIAL REAL  
21 PROPERTY.

22 (2) THIS SECTION DOES NOT PROHIBIT, LIMIT, OR IMPAIR THE  
23 FOLLOWING:

- 24 (a) THE ASSERTION OF TORT CLAIMS OTHER THAN CLAIMS FOR  
25 NEGLIGENCE;  
26 (b) THE ASSERTION OF CONTRACT OR WARRANTY CLAIMS; OR  
27 (c) THE ASSERTION OF CLAIMS THAT ARISE FROM THE VIOLATION  
28 OF ANY STATUTE OR ORDINANCE OTHER THAN CLAIMS FOR VIOLATION OF  
29 A BUILDING CODE.

30 **13-20-1307. Tolling of statutes of limitation.** IF A NOTICE OF  
31 CLAIM IS SENT TO A CONSTRUCTION PROFESSIONAL IN ACCORDANCE WITH  
32 SECTION 13-20-1305 WITHIN THE TIME PRESCRIBED FOR THE FILING OF AN  
33 ACTION UNDER ANY APPLICABLE STATUTE OF LIMITATIONS OR REPOSE,  
34 THEN THE STATUTE OF LIMITATIONS OR REPOSE IS TOLLED UNTIL SIXTY  
35 DAYS AFTER THE COMPLETION OF THE NOTICE OF CLAIM PROCESS  
36 DESCRIBED IN SECTION 13-20-1305.

37 **13-20-1308. Limitation of damages - definition.** (1) A  
38 CONSTRUCTION PROFESSIONAL IS NOT LIABLE FOR MORE THAN ACTUAL  
39 DAMAGES UNLESS AND ONLY IF THE CLAIMANT OTHERWISE PREVAILS ON  
40 THE CLAIM THAT A VIOLATION OF THE "COLORADO CONSUMER  
41 PROTECTION ACT", ARTICLE 1 OF TITLE 6, HAS OCCURRED AND IF:

- 42 (a) THE CONSTRUCTION PROFESSIONAL'S MONETARY OFFER, MADE  
43 PURSUANT TO SECTION 13-20-1305 (3), TO SETTLE FOR A SUM CERTAIN A

1 CONSTRUCTION DEFECT CLAIM DESCRIBED IN A NOTICE OF CLAIM IS LESS  
2 THAN EIGHTY-FIVE PERCENT OF THE AMOUNT AWARDED TO THE CLAIMANT  
3 AS ACTUAL DAMAGES SUSTAINED, EXCLUSIVE OF COSTS, INTEREST, AND  
4 ATTORNEY FEES; OR

5 (b) THE REASONABLE COST, AS DETERMINED BY THE TRIER OF  
6 FACT, TO COMPLETE THE CONSTRUCTION PROFESSIONAL'S OFFER, MADE  
7 PURSUANT TO SECTION 13-20-1305 (3), TO REMEDY THE CONSTRUCTION  
8 DEFECT DESCRIBED IN THE NOTICE OF CLAIM IS LESS THAN EIGHTY-FIVE  
9 PERCENT OF THE AMOUNT AWARDED TO THE CLAIMANT AS ACTUAL  
10 DAMAGES SUSTAINED EXCLUSIVE OF COSTS, INTEREST, AND ATTORNEY  
11 FEES.

12 (2) IF A CONSTRUCTION PROFESSIONAL DOES NOT SUBSTANTIALLY  
13 COMPLY WITH THE TERMS OF AN ACCEPTED OFFER TO REMEDY OR AN  
14 ACCEPTED OFFER TO SETTLE A CLAIM FOR A CONSTRUCTION DEFECT MADE  
15 PURSUANT TO SECTION 13-20-1305 OR IF A CONSTRUCTION PROFESSIONAL  
16 FAILS TO RESPOND TO A NOTICE OF CLAIM, THE CONSTRUCTION  
17 PROFESSIONAL IS SUBJECT TO THE TREBLE DAMAGES PROVISION OF  
18 SECTION 6-1-113 (2)(a)(III); EXCEPT THAT A CONSTRUCTION  
19 PROFESSIONAL IS SUBJECT TO THE TREBLE DAMAGES PROVISION ONLY IF  
20 THE CLAIMANT OTHERWISE PREVAILS ON THE CLAIM THAT A VIOLATION OF  
21 THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6,  
22 HAS OCCURRED.

23 (3) NOTWITHSTANDING ARTICLE 1 OF TITLE 6, THE AGGREGATE  
24 AMOUNT OF TREBLE DAMAGES AWARDED IN AN ACTION UNDER SECTION  
25 6-1-113 (2)(a)(III) AND ATTORNEY FEES AWARDED TO A CLAIMANT UNDER  
26 SECTION 6-1-113 (2)(b) MUST NOT EXCEED TWO HUNDRED FIFTY  
27 THOUSAND DOLLARS IN ANY ACTION AGAINST A CONSTRUCTION  
28 PROFESSIONAL.

29 (4) (a) IN AN ACTION ASSERTING PERSONAL INJURY OR BODILY  
30 INJURY AS A RESULT OF A CONSTRUCTION DEFECT IN WHICH DAMAGES FOR  
31 NONECONOMIC LOSS OR INJURY OR DERIVATIVE NONECONOMIC LOSS OR  
32 INJURY MAY BE AWARDED, THE DAMAGES SHALL NOT EXCEED THE SUM OF  
33 TWO HUNDRED FIFTY THOUSAND DOLLARS.

34 (b) THE LIMITATIONS ON NONECONOMIC DAMAGES SET FORTH IN  
35 THIS SUBSECTION (4) ARE ADJUSTED FOR INFLATION AS OF JULY 1, 2003,  
36 AND AS OF JULY 1 OF EACH YEAR THEREAFTER UNTIL AND INCLUDING JULY  
37 1, 2008. THE ADJUSTMENTS MADE PURSUANT TO THIS SUBSECTION (4)(b)  
38 ARE ROUNDED UPWARD OR DOWNWARD TO THE NEAREST TEN DOLLAR  
39 INCREMENT.

40 (c) THE SECRETARY OF STATE SHALL CERTIFY THE ADJUSTED  
41 LIMITATION ON DAMAGES WITHIN FOURTEEN DAYS AFTER THE  
42 APPROPRIATE INFORMATION IS AVAILABLE, AND THE ADJUSTED  
43 LIMITATION ON DAMAGES IS THE LIMITATION APPLICABLE TO ALL CLAIMS

1 FOR RELIEF THAT ACCRUE ON OR AFTER JULY 1, 2003.

2 (d) AS USED IN THIS SUBSECTION (4):

3 (I) "DERIVATIVE NONECONOMIC LOSS OR INJURY" HAS THE

4 MEANING SET FORTH IN SECTION 13-21-102.5 (2)(a).

5 (II) "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE

6 UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS

7 CONSUMER PRICE INDEX FOR DENVER-BOULDER, ALL ITEMS, ALL URBAN

8 CONSUMERS, OR ITS SUCCESSOR INDEX.

9 (III) "NONECONOMIC LOSS OR INJURY" HAS THE MEANING SET

10 FORTH IN SECTION 13-21-102.5 (2)(b).

11 (5) CLAIMS FOR PERSONAL INJURY OR BODILY INJURY AS A RESULT

12 OF A CONSTRUCTION DEFECT ARE NOT SUBJECT TO THE TREBLE DAMAGES

13 PROVISIONS OF THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE

14 1 OF TITLE 6.

15 (6) IN ANY CASE IN WHICH THE COURT DETERMINES THAT THE

16 ISSUE OF A VIOLATION OF THE "COLORADO CONSUMER PROTECTION ACT",

17 ARTICLE 1 OF TITLE 6, WILL BE SUBMITTED TO A JURY, THE COURT SHALL

18 NOT DISCLOSE NOR ALLOW DISCLOSURE TO THE JURY OF AN OFFER OF

19 SETTLEMENT OR OFFER TO REMEDY MADE UNDER SECTION 13-20-1305

20 THAT WAS NOT ACCEPTED BY THE CLAIMANT.

21 (7)(a) IN ORDER TO PRESERVE COLORADO RESIDENTIAL PROPERTY

22 OWNERS' LEGAL RIGHTS AND REMEDIES, IN ANY CIVIL ACTION OR

23 ARBITRATION PROCEEDING DESCRIBED IN SECTION 13-20-1303 (1), ANY

24 EXPRESS WAIVER OF, OR LIMITATION ON, THE LEGAL RIGHTS, REMEDIES, OR

25 DAMAGES PROVIDED BY THE "CONSTRUCTION DEFECT ACTION REFORM

26 ACT OF 2026", THIS PART 13, OR PROVIDED BY THE "COLORADO

27 CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6, AS DESCRIBED IN

28 THIS SECTION, OR ANY LIMITATION ON THE ABILITY TO ENFORCE THE

29 LEGAL RIGHTS, REMEDIES, OR DAMAGES WITHIN THE TIME PROVIDED BY

30 APPLICABLE STATUTES OF LIMITATION OR REPOSE IS VOID AS AGAINST

31 PUBLIC POLICY.

32 (b) A WAIVER, LIMITATION, OR RELEASE CONTAINED IN A WRITTEN

33 SETTLEMENT OF CLAIMS, AND ANY RECORDED NOTICE OF THE

34 SETTLEMENT, BETWEEN A RESIDENTIAL PROPERTY OWNER AND A

35 CONSTRUCTION PROFESSIONAL AFTER THE CLAIM HAS ACCRUED IS NOT

36 VOIDED BY THIS SUBSECTION (7).

37 (c) THIS SUBSECTION (7) APPLIES ONLY TO THE LEGAL RIGHTS,

38 REMEDIES, OR DAMAGES OF CLAIMANTS ASSERTING CLAIMS ARISING OUT

39 OF RESIDENTIAL PROPERTY AND DOES NOT APPLY TO SALES OR DONATIONS

40 OF PROPERTY OR SERVICES BY A BONA FIDE CHARITABLE ORGANIZATION

41 THAT IS IN COMPLIANCE WITH THE REGISTRATION AND REPORTING

42 REQUIREMENTS OF ARTICLE 16 OF TITLE 6.

43 (d) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (7) TO

1 THE CONTRARY, THIS SUBSECTION (7) APPLIES ONLY TO ACTIONS THAT ARE  
2 GOVERNED BY THE PROVISIONS OF THIS PART 13, ALSO KNOWN AS THE  
3 "CONSTRUCTION DEFECT ACTION REFORM ACT OF 2026", AND DO NOT TO  
4 ALTER OR AMEND THE LIMITATIONS ON DAMAGES CONTAINED IN THIS PART  
5 13, INCLUDING THE LIMITATIONS ON TREBLE DAMAGES AND ATTORNEY  
6 FEES SET FORTH IN THIS SECTION.

7 (e) THIS SECTION DOES NOT RENDER VOID ANY REQUIREMENT TO  
8 PARTICIPATE IN MEDIATION PRIOR TO FILING A SUIT OR ARBITRATION  
9 PROCEEDING.

10 **13-20-1309. Express warranty - not affected.** THIS PART 13 IS  
11 NOT INTENDED TO ABROGATE OR LIMIT THE PROVISIONS OF ANY EXPRESS  
12 WARRANTY OR THE OBLIGATIONS OF THE PROVIDER OF THE WARRANTY.  
13 THIS PART 13 APPLIES TO THOSE CIRCUMSTANCES WHERE AN ACTION IS  
14 FILED ASSERTING ONE OR MORE CLAIMS FOR RELIEF, INCLUDING A CLAIM  
15 FOR BREACH OF WARRANTY; EXCEPT THAT, IN THE ACTION, SECTION  
16 13-20-1308 (7) DOES NOT APPLY TO A BREACH OF EXPRESS WARRANTY  
17 CLAIMS EXCEPT TO THE EXTENT THAT PROVISIONS OF THE EXPRESS  
18 WARRANTY PURPORT TO WAIVE OR LIMIT CLAIMS FOR RELIEF OTHER THAN  
19 THE BREACH OF EXPRESS WARRANTY CLAIM. THIS PART 13 DOES NOT  
20 REQUIRE A CLAIMANT THAT IS THE BENEFICIARY OF AN EXPRESS  
21 WARRANTY TO COMPLY WITH THE NOTICE PROVISIONS OF SECTION  
22 13-20-1305 TO REQUEST ORDINARY WARRANTY SERVICE IN ACCORDANCE  
23 WITH THE TERMS OF THE WARRANTY. A CLAIMANT THAT REQUIRES  
24 WARRANTY SERVICE MUST COMPLY WITH THE PROVISIONS OF THE  
25 WARRANTY.

26 **13-20-1310. Insurance policies issued to construction**  
27 **professionals - legislative declaration - definitions.** (1) (a) THE  
28 GENERAL ASSEMBLY FINDS AND DETERMINES THAT:

29 (I) THE INTERPRETATION OF INSURANCE POLICIES ISSUED TO  
30 CONSTRUCTION PROFESSIONALS IS OF VITAL IMPORTANCE TO THE  
31 ECONOMIC AND SOCIAL WELFARE OF THE CITIZENS OF COLORADO AND IN  
32 FURTHERING THE PURPOSES OF THIS PART 13;

33 (II) INSURANCE POLICIES ISSUED TO CONSTRUCTION  
34 PROFESSIONALS HAVE BECOME INCREASINGLY COMPLEX, OFTEN  
35 CONTAINING MULTIPLE, LENGTHY ENDORSEMENTS AND EXCLUSIONS THAT  
36 CONFLICT WITH THE REASONABLE EXPECTATIONS OF THE INSURED; AND

37 (III) THE CORRECT INTERPRETATION OF COVERAGE FOR DAMAGES  
38 ARISING OUT OF CONSTRUCTION DEFECTS IS IN THE BEST INTEREST OF  
39 INSURERS, CONSTRUCTION PROFESSIONALS, AND PROPERTY OWNERS.

40 (b) THE GENERAL ASSEMBLY DECLARES THAT:

41 (I) THE POLICY OF COLORADO FAVORS THE INTERPRETATION OF  
42 INSURANCE COVERAGE BROADLY FOR THE INSURED;

43 (II) THE LONG-STANDING AND CONTINUING POLICY OF COLORADO

1 FAVORS A BROAD INTERPRETATION OF AN INSURER'S DUTY TO DEFEND THE  
2 INSURED UNDER LIABILITY INSURANCE POLICIES AND THAT THIS DUTY IS  
3 A FIRST-PARTY BENEFIT TO AND CLAIM ON BEHALF OF THE INSURED;  
4 (III) THE DECISION OF THE COLORADO COURT OF APPEALS IN  
5 *GENERAL SECURITY INDEMNITY COMPANY OF ARIZONA V. MOUNTAIN STATES*  
6 *MUTUAL CASUALTY COMPANY*, 205 P.3d 529 (COLO. APP. 2009) DOES NOT  
7 PROPERLY CONSIDER A CONSTRUCTION PROFESSIONAL'S REASONABLE  
8 EXPECTATION THAT AN INSURER WOULD DEFEND THE CONSTRUCTION  
9 PROFESSIONAL AGAINST AN ACTION OR NOTICE OF CLAIM CONTEMPLATED  
10 BY THIS PART 13; AND  
11 (IV) FOR THE PURPOSES OF GUIDING PENDING AND FUTURE  
12 ACTIONS INTERPRETING LIABILITY INSURANCE POLICIES ISSUED TO  
13 CONSTRUCTION PROFESSIONALS, WHAT HAS BEEN AND CONTINUES TO BE  
14 THE POLICY OF COLORADO IS CLARIFIED AND CONFIRMED IN THE  
15 INTERPRETATION OF INSURANCE POLICIES THAT HAVE BEEN AND MAY BE  
16 ISSUED TO CONSTRUCTION PROFESSIONALS.  
17 (2) AS USED IN THIS SECTION:  
18 (a) "INSURANCE" HAS THE MEANING SET FORTH IN SECTION  
19 10-1-102.  
20 (b) "INSURANCE POLICY" MEANS A CONTRACT OF INSURANCE.  
21 (c) "INSURER" HAS THE MEANING SET FORTH IN SECTION 10-1-102.  
22 (d) "LIABILITY INSURANCE POLICY" MEANS A CONTRACT OF  
23 INSURANCE THAT COVERS OCCURRENCES OF DAMAGE OR INJURY DURING  
24 THE POLICY PERIOD AND INSURES A CONSTRUCTION PROFESSIONAL FOR  
25 LIABILITY ARISING FROM CONSTRUCTION-RELATED WORK.  
26 (3) IN INTERPRETING A LIABILITY INSURANCE POLICY ISSUED TO A  
27 CONSTRUCTION PROFESSIONAL, A COURT SHALL PRESUME THAT THE WORK  
28 OF A CONSTRUCTION PROFESSIONAL THAT RESULTS IN PROPERTY DAMAGE,  
29 INCLUDING DAMAGE TO THE WORK ITSELF OR OTHER WORK, IS AN  
30 ACCIDENT UNLESS THE PROPERTY DAMAGE IS INTENDED AND EXPECTED BY  
31 THE INSURED. THIS SUBSECTION (3) DOES NOT:  
32 (a) REQUIRE COVERAGE FOR DAMAGE TO AN INSURED'S OWN WORK  
33 UNLESS OTHERWISE PROVIDED IN THE INSURANCE POLICY; OR  
34 (b) CREATE INSURANCE COVERAGE THAT IS NOT INCLUDED IN THE  
35 INSURANCE POLICY.  
36 (4) (a) UPON A FINDING OF AMBIGUITY IN AN INSURANCE POLICY,  
37 A COURT MAY CONSIDER A CONSTRUCTION PROFESSIONAL'S OBJECTIVE,  
38 REASONABLE EXPECTATIONS IN THE INTERPRETATION OF AN INSURANCE  
39 POLICY ISSUED TO THE CONSTRUCTION PROFESSIONAL.  
40 (b) IN CONSTRUING AN INSURANCE POLICY TO MEET A  
41 CONSTRUCTION PROFESSIONAL'S OBJECTIVE, REASONABLE EXPECTATIONS,  
42 THE COURT MAY CONSIDER THE FOLLOWING:  
43 (I) THE OBJECT SOUGHT TO BE OBTAINED BY THE CONSTRUCTION

1 PROFESSIONAL IN THE PURCHASE OF THE INSURANCE POLICY; AND  
2 (II) WHETHER A CONSTRUCTION DEFECT HAS RESULTED, DIRECTLY  
3 OR INDIRECTLY, IN BODILY INJURY, PROPERTY DAMAGE, OR LOSS OF THE  
4 USE OF PROPERTY.  
5 (c) IN CONSTRUING AN INSURANCE POLICY TO MEET A  
6 CONSTRUCTION PROFESSIONAL'S OBJECTIVE, REASONABLE EXPECTATIONS,  
7 A COURT MAY CONSIDER AND GIVE WEIGHT TO ANY WRITING CONCERNING  
8 THE INSURANCE POLICY PROVISION IN DISPUTE THAT IS NOT PROTECTED  
9 FROM DISCLOSURE BY THE ATTORNEY-CLIENT PRIVILEGE, WORK-PRODUCT  
10 PRIVILEGE, OR PART 2 OF ARTICLE 72 OF TITLE 24 AND THAT IS  
11 GENERATED, APPROVED, ADOPTED, OR RELIED ON BY THE INSURER OR ITS  
12 PARENT OR SUBSIDIARY COMPANY OR AN INSURANCE RATING OR POLICY  
13 DRAFTING ORGANIZATION, SUCH AS THE INSURANCE SERVICES OFFICE,  
14 INC., OR ITS PREDECESSOR OR SUCCESSOR ORGANIZATION; EXCEPT THAT  
15 THIS SUBSECTION (4)(c) DOES NOT RESTRICT, LIMIT, EXCLUDE, OR  
16 CONDITION COVERAGE OR THE INSURER'S OBLIGATION BEYOND THAT  
17 WHICH IS REASONABLY INFERRED FROM THE WORDS USED IN THE  
18 INSURANCE POLICY.  
19 (5) IF AN INSURANCE POLICY PROVISION THAT APPEARS TO GRANT  
20 OR RESTORE COVERAGE CONFLICTS WITH AN INSURANCE POLICY  
21 PROVISION THAT APPEARS TO EXCLUDE OR LIMIT COVERAGE, THE COURT  
22 SHALL CONSTRUE THE INSURANCE POLICY TO FAVOR COVERAGE IF  
23 REASONABLY AND OBJECTIVELY POSSIBLE.  
24 (6) IF AN INSURER DISCLAIMS OR LIMITS COVERAGE UNDER A  
25 LIABILITY INSURANCE POLICY ISSUED TO A CONSTRUCTION PROFESSIONAL,  
26 THE INSURER BEARS THE BURDEN OF PROVING BY A PREPONDERANCE OF  
27 THE EVIDENCE THAT:  
28 (a) A POLICY'S LIMITATION, EXCLUSION, OR CONDITION IN THE  
29 INSURANCE POLICY BARS OR LIMITS COVERAGE FOR THE INSURED'S LEGAL  
30 LIABILITY IN AN ACTION OR NOTICE OF CLAIM MADE PURSUANT TO SECTION  
31 13-20-1305 CONCERNING A CONSTRUCTION DEFECT; AND  
32 (b) AN EXCEPTION TO THE LIMITATION, EXCLUSION, OR CONDITION  
33 IN THE INSURANCE POLICY DOES NOT RESTORE COVERAGE UNDER THE  
34 POLICY.  
35 (7) (a) AN INSURER'S DUTY TO DEFEND A CONSTRUCTION  
36 PROFESSIONAL OR OTHER INSURED UNDER A LIABILITY INSURANCE POLICY  
37 ISSUED TO A CONSTRUCTION PROFESSIONAL IS TRIGGERED BY A  
38 POTENTIALLY COVERED LIABILITY DESCRIBED IN:  
39 (I) A NOTICE OF CLAIM MADE PURSUANT TO SECTION 13-20-1305;  
40 OR  
41 (II) A COMPLAINT, CROSS-CLAIM, COUNTERCLAIM, OR  
42 THIRD-PARTY CLAIM FILED IN AN ACTION AGAINST THE CONSTRUCTION  
43 PROFESSIONAL CONCERNING A CONSTRUCTION DEFECT.

1           (b) (I) AN INSURER SHALL DEFEND A CONSTRUCTION  
2 PROFESSIONAL THAT HAS RECEIVED A NOTICE OF CLAIM MADE PURSUANT  
3 TO SECTION 13-20-1305, REGARDLESS OF WHETHER ANOTHER INSURER  
4 MAY ALSO OWE THE INSURED A DUTY TO DEFEND THE NOTICE OF CLAIM,  
5 UNLESS AUTHORIZED BY LAW. IN DEFENDING THE CLAIM, THE INSURER  
6 SHALL:

7           (A) REASONABLY INVESTIGATE THE CLAIM; AND

8           (B) REASONABLY COOPERATE WITH THE INSURED IN THE NOTICE  
9 OF CLAIM PROCESS.

10          (II) THIS SUBSECTION (7)(b) DOES NOT REQUIRE THE INSURER TO  
11 RETAIN LEGAL COUNSEL FOR THE INSURED OR TO PAY ANY SUMS TOWARD  
12 SETTLEMENT OF THE NOTICE OF CLAIM THAT ARE NOT COVERED BY THE  
13 INSURANCE POLICY.

14          (III) AN INSURER SHALL NOT WITHDRAW ITS DEFENSE OF AN  
15 INSURED CONSTRUCTION PROFESSIONAL OR COMMENCE AN ACTION  
16 SEEKING REIMBURSEMENT FROM AN INSURED FOR EXPENDED DEFENSE  
17 COSTS UNLESS AUTHORIZED BY LAW AND UNLESS THE INSURER HAS  
18 RESERVED THE RIGHT IN WRITING WHEN ACCEPTING OR ASSUMING THE  
19 DEFENSE OBLIGATION.

20          **13-20-1311. Part to take effect.** THIS PART 13 TAKES EFFECT  
21 SEPTEMBER 1, 2027."

22          Renumber succeeding section accordingly.

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