

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 THIS PART 8 IS REPEALED, EFFECTIVE**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:

PART 13

CONSTRUCTION DEFECT ACTIONS FOR PROPERTY LOSS AND DAMAGE

13-20-1301. Short title. THE SHORT TITLE OF THIS PART 13 IS THE "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 AWARDABLE 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.

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.

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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