

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Local Government & Housing.

SB24-106 be amended as follows:

1 Amend printed bill, page 5, line 15, strike "(3); and **add** (6)" and  
2 substitute "(3)".

3 Page 6, strike lines 3 and 4.

4 Page 6, line 6, before "(3)," insert "(1),".

5 Page 6, strike line 7 and substitute:

6       **"13-20-803.5. Notice of claim process.** (1) No later than  
7 seventy-five days before filing an action against a construction  
8 professional, or no later than ninety days before filing the action in the  
9 case of a commercial property OR A PERSON ASSERTING A CLAIM ON  
10 BEHALF OF ANOTHER PERSON, a claimant shall send or deliver a written  
11 notice of claim to the construction professional by certified mail, return  
12 receipt requested, or by personal service.

13       (3) (a) Within thirty days".

14 Page 6, strike lines 13 through 18 and substitute "requested, or BY  
15 personal service an offer to settle the claim by:

16       (I) Payment of a sum certain; or  
17       (II) **by** Agreeing to remedy the claimed defect described in the  
18 notice of claim AND ALL DAMAGES CAUSED BY THE DEFECT.".

19 Page 6, line 20, strike "include a report" and substitute "include:

20       (I) A report".

21 Page 6, line 24, strike "work." and substitute "work; AND

22       (II) IF THE CONSTRUCTION PROFESSIONAL THAT RECEIVED THE  
23 NOTICE OF CLAIM INTENDS TO COMMISSION A THIRD PARTY TO PERFORM  
24 THE REMEDIAL WORK, INFORMATION REGARDING THE IDENTITY AND  
25 QUALIFICATIONS OF THE THIRD PARTY.".

26 Page 7, lines 5 and 6, strike "COMPLETE OR CAUSE TO BE COMPLETED" and  
27 substitute "DILIGENTLY PERFORM TO COMPLETION OR CAUSE TO BE  
28 PERFORMED TO COMPLETION".

29 Page 7, line 9, after the period add "REMEDIAL WORK IS COMPLETED  
30 WHEN:

31       (I) ALL DEFECTS, BOTH KNOWN AND DISCOVERED, AND RESULTING  
32 DAMAGES HAVE BEEN REPAIRED ACCORDING TO THE PREVAILING

1 STANDARDS OF THE INDUSTRY, MANUFACTURER'S INSTRUCTIONS, AND THE  
2 RELEVANT BUILDING CODES;

3 (II) THE REPAIR HAS PASSED ALL RELEVANT BUILDING CODE  
4 INSPECTIONS; AND

5 (III) THE REPAIR HAS BEEN INSPECTED AND APPROVED BY THE  
6 CLAIMANT OR BY A THIRD-PARTY INSPECTOR OF THE CLAIMANT'S CHOICE  
7 AND, IF APPLICABLE, THE ENGINEER WHO STAMPED THE PLANS.

8 Page 7, strike lines 10 through 16.

9 Page 7, line 17, strike "(a)".

10 Page 7, lines 18 and 19, strike "OR IF THE CONSTRUCTION PROFESSIONAL  
11 DOES NOT INVOKE THE RIGHT TO REMEDY," and substitute "IF THE  
12 CONSTRUCTION PROFESSIONAL DOES NOT COMPLY WITH AN ACCEPTED  
13 OFFER OF MONETARY SETTLEMENT, OR IF THE REMEDIAL WORK IDENTIFIED  
14 IN AN ACCEPTED OFFER IS NOT COMPLETED,".

15 Page 7, strike lines 22 through 27 and substitute "contractually agreed to  
16 a AN ENFORCEABLE mediation procedure OR BINDING ARBITRATION  
17 PROCEDURE, in which case the ~~mediation procedure shall be satisfied~~  
18 ~~prior to bringing an action~~ CLAIMANT AND THE CONSTRUCTION  
19 PROFESSIONAL SHALL COMPLY WITH THE PROCEDURE.".

20 Page 8, strike lines 1 through 24 and substitute:

21 (7) (a) ~~If an offer by a construction professional is made and accepted, and if thereafter the construction professional does not comply with its offer to remedy or settle a claim for a construction defect, the claimant may file an action against the construction professional for claims arising out of the defect or damage described in the notice of claim without further notice~~ IF AN OFFER OF MONETARY SETTLEMENT IS ACCEPTED BY THE CLAIMANT AND THE CONSTRUCTION PROFESSIONAL PROVIDES PAYMENT IN ACCORDANCE WITH THE TERMS OF THE ACCEPTED OFFER, THE CONSTRUCTION PROFESSIONAL'S PAYMENT CONSTITUTES SETTLEMENT AND RELEASE, SUBJECT TO THE SETTLEMENT AGREEMENT, OF THE CLAIMS IDENTIFIED IN THE NOTICE OF CLAIM FOR WHICH PAYMENT WAS PROVIDED AS CONSIDERATION FOR SETTLEMENT AND RELEASE.

33 (b) IF AN OFFER TO REMEDY IS ACCEPTED BY THE CLAIMANT AND THE REMEDIAL CONSTRUCTION WORK IDENTIFIED IN THE OFFER IS PERFORMED TO COMPLETION AS DESCRIBED IN SUBSECTION (5)(b) OF THIS SECTION:

37 (I) THE CLAIMANT HAS SETTLED AND RELEASED THE CLAIMS THAT

1 WERE REPAIRED TO COMPLETION; AND  
2 (II) THE CLAIMANT IS LIMITED TO CLAIMS REGARDING IMPROPER  
3 PERFORMANCE OF THE REMEDIAL WORK, NEW DEFECTS, OR DAMAGES  
4 CREATED BY THE REMEDIAL WORK, AND DEFECTS OR DAMAGES THAT WERE  
5 NOT IDENTIFIED IN THE NOTICE OF CLAIM.".

6 Page 9 strike line 27.

7 Page 10, strike lines 1 through 18.

8 Rerumber succeeding sections accordingly.

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