A BILL FOR AN ACT

CONCERNING INCREASED CONSUMER PROTECTION FOR HOMEOWNERS

SEEKING RELIEF FOR CONSTRUCTION DEFECTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill:

! Increases the statutory limitation period for actions based on construction defects from 6 years to 10 years;
! Allows tolling of the limitation period on any statutory or equitable basis; and
! Requires tolling of the limitation period until the claimant
discovers not only some physical manifestation of a construction defect but also its cause.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, amend 13-80-104 as follows:

13-80-104. Limitation of actions against architects, contractors, builders or builder vendors, engineers, inspectors, and others. (1) (a) Notwithstanding any statutory provision to the contrary, all actions against any architect, contractor, builder or builder vendor, engineer, or inspector performing or furnishing the design, planning, supervision, inspection, construction, or observation of construction of any improvement to real property shall MUST be brought within the time provided in section 13-80-102 after the claim for relief arises, and not thereafter LATER, but in no case shall such MAY an action be brought more than six TEN years after the substantial completion of the improvement IMPROVEMENTS to the real property, except as provided in subsection (2) of this section.

(b) (I) Except as otherwise provided in subparagraph (II) of this subsection (1)(b)(II) OF THIS SECTION, a claim for relief arises under this section at the time the claimant or the claimant's predecessor in interest discovers or in the exercise of reasonable diligence should have discovered BOTH the physical manifestations AND THE CAUSE of a defect in the improvement which THAT ultimately causes the injury.

(II) Notwithstanding the provisions of paragraph (a) of this subsection (1) SUBSECTION (1)(a) OF THIS SECTION, all claims, including but not limited to indemnity or contribution, by a claimant against a person who is or may be liable to the claimant for all or part of the
claimant's liability to a third person:

(A) Arise at the time the third person's claim against the claimant is settled or at the time final judgment is entered on the third person's claim against the claimant, whichever comes first; and

(B) **MUST** be brought within ninety days after the claims arise, and not thereafter.

(c) *Such* actions **shall** be brought pursuant to subsection (1)(a) of this section include any and all actions in tort, contract, indemnity, or contribution, or other actions for the recovery of damages for:

(I) Any deficiency in the design, planning, supervision, inspection, construction, or observation of construction of any improvement to real property; or

(II) Injury to real or personal property caused by any such deficiency described in subsection (1)(c)(I) of this section; or

(III) Injury to or wrongful death of a person caused by any such deficiency described in subsection (1)(c)(I) of this section.

(2) In case any such cause of action described in subsection (1) of this section arises during the fifth or sixth year after substantial completion of the improvement, the action **shall** **MUST** be brought within two years after the date upon which the cause of action arises.

(3) The limitations provided by this section:

(a) **ARE SUBJECT TO BOTH STATUTORY AND EQUITABLE TOLLING;**

AND

(b) **MAY** not be asserted as a defense by any person in actual possession or control, as owner or tenant or in any other capacity, of such an improvement at the time any deficiency in such an improvement
constitutes the proximate cause of the injury or damage for which it is proposed to bring an action.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to causes of action that accrue, as determined in accordance with section 13-80-104 (1)(b), Colorado Revised Statutes, as amended, on or after the applicable effective date of this act.