

House Judiciary

03/06/2024 01:30 PM

HB24-1230 Protections for Real Property Owners

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Sara Loflin For themselves	<p>Good evening, Mr. Chair and Members of the committee. My name is Sara Loflin. I am the Executive Director of ProgressNow Colorado and I serve as the Mayor Pro Tem of Erie, Colorado. I am here today on behalf of myself in support of 1230.</p> <p>As a local elected official, I have spent many evenings over the last four years hearing homeowners - constituents - who thought they had bought their dream home, only to find that their home had major construction issues -</p> <ul style="list-style-type: none">-improperly installed electrical lines,-foundational landscape grating that caused major flooding,-garage foundations that have sunk 18 inches within the first 12 months-molding basements for mis-installed amenities. <p>Months later, they have been met with arrogant and unresponsive builders who make them jump through all manner of hoops and online portals, only to provide insufficient or ineffective remedies or refuse to respond at all.</p>

	<p>HB1230 requires a remedy for these expensive defects, and would protect the rights of Colorado homeowners in ensuring their largest investment.</p> <p>As someone who bought a new home almost six years ago, and have experienced trying to have issues with warrantied aspects of my home after a year, I thank Representative Parenti - my representative - for helping the residents in our district to ensure that a developer is bound to the warranties they promised. I respectfully ask you to vote no on SB106. Thank you.</p>
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Mr. Chair and members of the committee, thank you for the opportunity to speak today. My name is Jeff Nehls and I am here from Pacey Nehls Economic Consulting.

I am in favor of HB24-1230. My view is that the bill would bring the statute of repose to the duration of time used by the majority of the states in the U.S. and I do not believe this change will harm the housing market in any way. Currently there are only four states with a shorter state of repose than Colorado.

The opposition to this bill argues that it will negatively impact the supply of new housing in Colorado. I disagree.

Coming out of the Great Recession, lower interest rates, more stringent mortgage requirements, and increased institutional investing caused a dramatic shift from builders building for-sale multifamily housing 40-45% of the time prior to the recession to only roughly 5% of the time after the recession – this “shift” had nothing to do with construction defect laws. This shift occurred all across the country, not only in Colorado.

As part of our analysis, we compared Colorado’s construction defect laws and housing availability to other states and found that while our laws are objectively some of the most builder-friendly in the country, we do not enjoy more for-sale multifamily housing than states with more homeowner friendly laws. In fact, we found no correlation between construction defect laws and the availability and affordability of housing. Builder’s contention to the contrary is a convenient narrative used in an effort to lower their litigation exposure when construction defects occur.

The largest builders in Colorado are recording billions of dollars of profits and indicate in their public financial statements that they are not concerned about construction defect litigation’s impact on their profits.

To reiterate, my view is that this bill would bring Colorado’s laws more in line with the state laws in the majority of the country and would not harm the housing market.

Thank you for the opportunity to speak. Our full report can be found on our website paceyecn.com and was also linked in a Denver Post article on this issue on 3/4/2024. I’d be happy to answer any questions.

John Flocco, USI Insurance on behalf of ACEC Colorado
Testimony For [HB24-1230 Protections for Real Property Owners](#)
[House Judiciary Committee](#) | Remote Testimony
Wednesday, March 6 | 1:30 p.m. | [Listen Online](#) | [Agenda \(fifth bill on agenda\)](#)
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Good afternoon, **Chair Weissman** and Committee members. I am John Flocco, a partner and executive vice president at USI Insurance Services. Our firm provides risk management services to engineering and architecture firms that work in the built environment in Colorado and across the U.S, and I personally have more than 25 years of experience working in this industry.

I am here today to speak as an member and on behalf of the American Council of Engineering Companies of Colorado, a professional trade association representing more than 255-member consulting engineering that provide professional design services in the built environment.

ACEC Colorado is in strong OPPOSITION of this legislation because we believe increasing the length of a professional designer's term of liability will discourage insurers to be in the Colorado market.

We already know the costs for residential professional liability and

construction insurance have gone up as a result of the decreasing number of insurance carriers willing to provide this coverage to engineers, architects and contractors. This insurance has been driven up by construction defect litigation, which would only increase by increasing the statute of repose from 6 years to 10 years.

If affordable housing is the goal of this legislation, it actually will be counter to that goal. I encourage to vote against House Bill 1230.

Thank you for your time, and I am happy to answer any questions.



Western Colorado Contractors Association

2470 Patterson Road, Suite 14, Grand Junction, CO 81505
Phone: 970-245-1384 • FAX: 970-245-1394 • E-mail: wcca@wcca-gj.com

March 4, 2024

Colorado State Judiciary Committee:
Honorable Representative Mike Weissman
Honorable Representative Gabe Evans
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Honorable Representative Marc Snyder
Honorable Representative Steven Woodrow
Honorable Representative Ryan Armagost
Honorable Representative Lorena Garcia
Honorable Representative Judy Amabile
Honorable Representative Javier Mabrey
Honorable Representative Matt Soper
CC:
Honorable Representative Jennifer Parenti
Honorable Representative Jennifer Bacon

Re: Opposing HB24-1230: Protections for Real Property Owners

The Western Colorado Contractors Association (WCCA) opposes the House Bill 24-1230: Protection for Real Property Owners. WCCA member businesses have expressed concerns of the impacts to the construction industry that this bill could impose. Some impact include:

1. **Section 2-13-80-104:** Increases the duration of "discovery" of a defect from 6yrs to 10yrs which is a 40% increase. Since construction defects are covered in a Contractors Liability Policy, this longer duration, and liability, will have a significant effect on the cost of housing and commercial construction.
2. **Section 4 13-20-806** increases the time for filing legal action to 12yrs from the current 8yrs. (Two years after discovery if found in years 9 or 10) Again, this will have a significant impact on insurance costs that will ultimately be passed on to the consumer.
3. **Section 4 13-20-806** voids any contract language that limits the rights of the property owner to sue the developer, contractor(s) and design professionals. This will again have a significant impact on insurance costs and open the door for lawsuits related to Deceptive Trade Practices.
4. Section 4 13-20-806-8I & BII Adds 6% "Prejudgement" interest from the time of construction to the CDARA Notice and 8% from the CDARA Notice to settlement.

To recap, this bill will make it even harder if not impossible to get insurance for residential and multifamily projects in Colorado. Further, there has been an increase in litigation against contractors on commercial properties recently. Regional healthcare projects and school construction projects have both had CDARA notices filed by the

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same attorneys that previously had only pursued residential and multifamily projects.

Although the construction industry has adhered to previously set laws and policy standards that protect the consumers, WCCA opposes the efforts of HB24-1230 that diminishes the protection of construction businesses and unfairly increases the liability costs to the industry as a whole.

We urge the Judiciary Committee to consider opposing HB24-1230. Thank you for your time and consideration.

Shawna Grieger, Executive Director

On behalf of Western Colorado Contractors Association

Western Colorado Contractors Association (WCCA) is a non for-profit member association with the mission to protect and promote construction related businesses across 27 counties of Western Colorado.

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