

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0713.01 Jery Payne x2157

HOUSE BILL 24-1230

HOUSE SPONSORSHIP

Parenti and Bacon,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING PROTECTIONS FOR PROPERTY OWNERS WITH RESPECT TO
102 IMPROVEMENTS TO REAL PROPERTY.

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>.)

Current law declares void any express waivers of or limitations on the legal rights or remedies provided by the "Construction Defect Action Reform Act" or the "Colorado Consumer Protection Act". **Sections 1 and 4** make it a violation of the "Colorado Consumer Protection Act" to obtain or attempt to obtain a waiver or limitation that violates the aforementioned current law. **Section 4** also requires a court to award to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

a claimant that prevails in a claim arising from alleged defects in a residential property construction, in addition to actual damages, prejudgment interest on the claim at a rate of 6% from the date the work is finished to the date it is sold to an occupant and 8% thereafter.

Current law requires that a lawsuit against an architect, a contractor, a builder or builder vendor, an engineer, or an inspector performing or furnishing the design, planning, supervision, inspection, construction, or observation of construction of an improvement to real property must be brought within 6 years after the claim arises. **Section 2** increases the amount of time in which a lawsuit may be brought from 6 to 10 years. Current law also provides that a claim of relief arises when a defect's physical manifestation was discovered or should have been discovered. **Section 2** also changes the time when a claim of relief arises to include both the discovery of the physical manifestation and the cause of the defect.

Section 3 voids a provision in a real estate contract that prohibits group lawsuits against a construction professional.

Section 5 of the bill prohibits governing documents of a common interest community from setting different or additional requirements than those in current law for a construction defect action.

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

2 **SECTION 1.** In Colorado Revised Statutes, 6-1-105, **amend**
3 (1)(cccc) and (1)(dddd); and **add** (1)(eeee) as follows:

4 **6-1-105. Unfair or deceptive trade practices.** (1) A person
5 engages in a deceptive trade practice when, in the course of the person's
6 business, vocation, or occupation, the person:

7 (cccc) Sells or offers for sale a product that is age-restricted to a
8 person who does not meet the age restriction; ~~or~~

9 (dddd) Fails to register a mobile home park in violation of section
10 38-12-1106; OR

11 (eeee) OBTAINS AN EXPRESS WAIVER OF, OR LIMITATION ON, OR
12 ATTEMPTS TO OBTAIN AN EXPRESS WAIVER OF, OR LIMITATION ON, A
13 CONSUMER'S LEGAL RIGHTS, REMEDIES, OR DAMAGES IN A CONTRACTUAL
14 PROVISION THAT IS MADE VOID IN SECTION 13-20-806 (7)(a).

1 **SECTION 2.** In Colorado Revised Statutes, 13-80-104, **amend**
2 (1)(a), (1)(b)(I), and (2) as follows:

3 **13-80-104. Limitation of actions against architects,**
4 **contractors, builders or builder vendors, engineers, inspectors, and**
5 **others.** (1) (a) Notwithstanding any statutory provision to the contrary,
6 all actions against any architect, contractor, builder or builder vendor,
7 engineer, or inspector performing or furnishing the design, planning,
8 supervision, inspection, construction, or observation of construction of
9 any improvement to real property shall be brought within the time
10 provided in section 13-80-102 after the claim for relief arises, and not
11 thereafter, but in no case shall ~~such an~~ THE action be brought more than
12 ~~six~~ TEN years after the substantial completion of the improvement to the
13 real property, except as provided in subsection (2) of this section.

14 (b) (I) Except as otherwise provided in ~~subparagraph (II) of this~~
15 ~~paragraph (b)~~ SUBSECTION (1)(b)(II) OF THIS SECTION, a claim for relief
16 arises under this section at the time the claimant or the claimant's
17 predecessor in interest discovers or in the exercise of reasonable diligence
18 should have discovered BOTH OF THE FOLLOWING CONCERNING THE
19 DEFECTS IN THE IMPROVEMENT WHICH ULTIMATELY CAUSES THE INJURY:

20 (A) The physical manifestations of ~~a~~ THE defect; ~~in the~~
21 ~~improvement which ultimately causes the injury.~~ AND

22 (B) THE CAUSE OF THE DEFECT.

23 (2) In case ~~any such~~ THE cause of action arises during the ~~fifth or~~
24 ~~sixth~~ NINTH OR TENTH year after substantial completion of the
25 improvement to real property, ~~said~~ THE action shall be brought within two
26 years after the date upon which said cause of action arises.

27 **SECTION 3.** In Colorado Revised Statutes, **add** 13-20-809 as

1 follows:

2 **13-20-809. Limitations on group legal actions - definition.**

3 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
4 REQUIRES, "DECLARATION" HAS THE MEANING SET FORTH IN SECTION
5 38-33.3-103 (13).

6 (2) A PROVISION IN A CONTRACT TO SELL REAL ESTATE, IN A
7 DECLARATION, OR IN A GOVERNING DOCUMENT IS VOID IF THE PROVISION
8 LIMITS A PROPERTY OWNER'S RIGHT TO BRING OR JOIN A LEGAL ACTION
9 WITH ONE OR MORE CLAIMANTS AGAINST A CONSTRUCTION PROFESSIONAL.

10 **SECTION 4.** In Colorado Revised Statutes, 13-20-806, **amend**
11 (7)(a); and **add** (8) as follows:

12 **13-20-806. Limitation of damages.** (7) (a) In order to preserve
13 Colorado residential property owners' legal rights and remedies, in any
14 civil action or arbitration proceeding described in section 13-20-802.5 (1),
15 any express waiver of, or limitation on, the legal rights, remedies, or
16 damages provided by the "Construction Defect Action Reform Act", this
17 part 8, or provided by the "Colorado Consumer Protection Act", article 1
18 of title 6, ~~C.R.S.~~, as described in this section, or on the ability to enforce
19 such legal rights, remedies, or damages within the time provided by
20 applicable statutes of limitation or repose ~~are~~ IS void as against public
21 policy. A PERSON THAT LIMITS OR ATTEMPTS TO LIMIT THE LEGAL RIGHTS,
22 REMEDIES, OR DAMAGES DESCRIBED IN THIS SUBSECTION (7)(a) ENGAGES
23 IN A DECEPTIVE TRADE PRACTICE PURSUANT TO THE "COLORADO
24 CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6.

25 (8) (a) WITH REGARD TO CLAIMS ARISING FROM ALLEGED DEFECTS
26 IN RESIDENTIAL PROPERTY CONSTRUCTION, A COURT SHALL AWARD TO A
27 CLAIMANT WHO PREVAILS WITH THE CLAIM PREJUDGMENT INTEREST

1 ADDED TO THE AMOUNT OF THE ACTUAL DAMAGES AT A RATE OF:

2 (I) SIX PERCENT PER YEAR, COMPOUNDED ANNUALLY THROUGH
3 THE DATE OF THE MAILING OF THE CLAIMANT'S FIRST NOTICE OF CLAIM
4 SENT IN ACCORDANCE WITH SECTION 13-20-803.5 AND BEGINNING ON THE
5 LATER OF:

6 (A) THE DATE THE DEFECTIVE STRUCTURE, COMPONENT, OR
7 IMPROVEMENT WAS FIRST INSTALLED ON THE REAL PROPERTY; OR

8 (B) THE DATE THE TITLE TO, OR INTEREST IN, THE DEFECTIVE
9 STRUCTURE, COMPONENT, OR IMPROVEMENT WAS TRANSFERRED TO THE
10 EARLIER OF THE CURRENT OWNER OR THE CURRENT OWNER'S EARLIEST
11 PREDECESSOR IN INTEREST; AND

12 (II) AFTER THE DATE DESCRIBED IN SUBSECTION (8)(a)(I)(B) OF
13 THIS SECTION, EIGHT PERCENT PER YEAR, COMPOUNDED ANNUALLY.

14 (b) NOTWITHSTANDING SUBSECTION (8)(a) OF THIS SECTION,
15 PREJUDGMENT INTEREST DOES NOT ACCRUE:

16 (I) AFTER THE DATE A STATUTORY SETTLEMENT OFFER IS MADE
17 PURSUANT TO SECTION 13-20-803.5 (3), IF THE STATUTORY SETTLEMENT
18 OFFER EXCEEDS THE AMOUNT OF THE JUDGMENT; OR

19 (II) ON THAT PART OF ANY ACTUAL DAMAGES AWARDED FOR
20 AMOUNTS ACTUALLY SPENT BEFORE JUDGMENT AND FOR WHICH INTEREST
21 UNDER SECTION 5-12-102 (1)(b) IS AWARDED.

22 (c) POSTJUDGMENT INTEREST ACCRUES ON THE JUDGMENT AS
23 PROVIDED BY LAW.

24 **SECTION 5.** In Colorado Revised Statutes, 38-33.3-303.5,
25 **amend** (1)(a) as follows:

26 **38-33.3-303.5. Construction defect actions - disclosure -**
27 **approval by unit owners - definitions - exemptions.** (1) (a) Before the

1 executive board, pursuant to section 38-33.3-302 (1)(d), institutes a
2 construction defect action, the executive board shall comply with this
3 section. A PROVISION IN THE DECLARATION OR ASSOCIATION'S GOVERNING
4 DOCUMENTS THAT IMPOSES DIFFERENT OR ADDITIONAL REQUIREMENTS
5 THAN THE REQUIREMENTS IN THIS SECTION IS VOID AS AGAINST PUBLIC
6 POLICY.

7 **SECTION 6. Act subject to petition - effective date -**
8 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
9 the expiration of the ninety-day period after final adjournment of the
10 general assembly; except that, if a referendum petition is filed pursuant
11 to section 1 (3) of article V of the state constitution against this act or an
12 item, section, or part of this act within such period, then the act, item,
13 section, or part will not take effect unless approved by the people at the
14 general election to be held in November 2024 and, in such case, will take
15 effect on the date of the official declaration of the vote thereon by the
16 governor.

17 (2) This act applies to causes of action arising on or after the
18 applicable effective date of this act.