

SENATE BILL REPORT

SSB 6409

As Passed Senate, February 13, 2002

Title: An act relating to construction defect claims asserting property loss and damage.

Brief Description: Requiring an opportunity for a cure before an action on a construction defect may be filed.

Sponsors: Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Prentice, Hargrove, Johnson, Rossi, Rasmussen, Honeyford, Gardner, Finkbeiner and Hale).

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 1/21/02, 2/4/02 [DPS].
Passed Senate: 2/13/02, 41-0.

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Majority Report: That Substitute Senate Bill No. 6409 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Keiser, Vice Chair; Franklin, Gardner, Hochstatter, Honeyford, Rasmussen, Regala and West.

Staff: Jack Brummel (786-7428)

Background: Contractors are required to carry liability insurance. They are facing increased costs for their insurance in part because insurers are concerned about the increased cost of construction defect litigation.

Summary of Bill: A claimant filing a construction defect suit must provide written notice to the construction professional 45 days before the suit is filed. The statute of limitations governing the time period allowed for commencing suit is in abeyance during this 45 day period. The construction professional must respond within 21 days of the notice and may offer to remedy the defect, compromise by payment, or dispute the claim. If a suit is filed, the claimant must, within 30 days of commencement, list the construction defects alleged and the construction professional responsible for each defect.

A condominium or homeowners' association filing a construction defect suit must notify all unit owners of the action and the expected expenses and fees accompanying it.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This is needed to make insurance available. The carriers need to see that the builders are taking a pro-active approach. The industry is looking for the initial opportunity to fix the problem. The consumer can always go to court if they choose.

Testimony Against: This won't impact the insurance cost problem for contractors. It shifts the burden on to the consumer for defective workmanship.

Testified: PRO: Jody Slavic, Bob Camp, BIAW; Charlie Conner; Shelly Lucus Kennedy, McDonald Insurance Group; Steve Weheny; Kris Lawrence; Mel Sorensen, National Association of Independent Insurance Agents; Larry Stout; Kristen Sawin, AWB; Mark Johnson, NFIB; Gary Smith IBA. CONCERNS: Larry Shannon, WSTLA.

House Amendment(s): The amendment:

- Adds the requirement that purchasers be notified at the time of purchase of their obligations and rights under the act;
- clarifies the definition of substantial remodel;
- specifically tolls applicable statutes of limitations and repose during, and for 60 days after, the period of notice and opportunity for cure provided by the bill;
- allows adding newly discovered defects to an existing lawsuit if the builder is given notice and 21 days to respond; and
- places the burden on the builder to seek dismissal of a lawsuit if the homeowner has not complied with the notice requirements of the act.