

SENATE BILL REPORT

SB 5892

As Reported By Senate Committee On:
Consumer Protection & Housing, February 07, 2008

Title: An act relating to the state building code.

Brief Description: Regarding the state building code.

Sponsors: Senators Honeyford, McCaslin, Tom, Delvin and Stevens.

Brief History:

Committee Activity: Government Operations & Elections: 2/20/07; 1/29/08 [w/oRec-CPH].
Consumer Protection & Housing: 2/05/08, 2/7/08 [DPS].

SENATE COMMITTEE ON CONSUMER PROTECTION & HOUSING

Majority Report: That Substitute Senate Bill No. 5892 be substituted therefor, and the substitute bill do pass.

Signed by Senators Weinstein, Chair; Kauffman, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Haugen, Jacobsen, Kilmer, McCaslin and Tom.

Staff: Alison Mendiola (786-7483)

Background: The Washington State Building Code consists of a series of national model codes and standards that regulate the construction of residential, commercial, and industrial buildings and structures. The current State Building Code consists of the International Building Code, the International Residential Code, the International Mechanical Code, the International Fire Code, and the Uniform Plumbing Code and Uniform Plumbing Code Standards.

The State Building Code is enforced by the counties and cities. Cities and counties may amend the codes as they apply within the specific jurisdiction; however, the amendments must not result in a code that is less than the minimum performance standards and objectives contained in the State Building Code.

Under the public duty doctrine, a government entity generally cannot be held liable for the injuries of an individual resulting from an employee's breach of a duty owed to the public as a whole. The Supreme Court has applied the public duty doctrine to building code compliance inspections – *Taylor v. Stevens County*, 111 Wn.2d 159 (1988).

Summary of Bill (Recommended Substitute): Building inspectors owe a duty of care to uphold the provisions of the State Building Code. If a building inspector, or someone acting in

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

the capacity of a building inspector, in the course of that person's work, breaches that duty, and that breach results in damage to new residential construction compromising the health, safety, or welfare of the homeowner, then the city or county may be held liable for that building inspector's gross negligence.

EFFECT OF CHANGES MADE BY CONSUMER PROTECTION & HOUSING COMMITTEE (Recommended Substitute): The city and county are liable for a building inspector's gross negligence in enforcing the building code for new residential construction. Language limiting damages to 50 percent and requiring mandatory arbitration is removed.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: Cities and counties should be liable for their mistakes, which end up costing homeowners thousands of dollars, and leaving the aggrieved homeowner without any recourse. Hopefully this would end the practice of some inspectors who just do drive-by inspections, or fail to do thorough final inspections.

CON: Washington's law exempting cities and counties from liability is consistent with the law in several states. Passing this bill would be a monumental change. The bill focuses on licensing home inspectors, contractors in residential construction, and looking at the underground economy. This bill impacts fire departments since they use the State Building Code, so maybe the scope should be limited to new residential construction.

Persons Testifying: PRO: Jon Norgaard, Gary Lawlis, Willa Point Homeowner's Association.

CON: Don Law, Law Lyman Daniel Kamerrer et al; Stan Bowman, American Institute of Architects Washington Council; Mike Brown, Washington Fire Chiefs.