

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

January 16, 2003

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Date

Committee on Business Affairs & Labor.

After consideration on the merits, the Committee recommends the following:

HB03-1161 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 4, line 2, after "CONCERNING", insert "ALL";
- 2 line 4, strike "PROPERTY LOSS" and substitute "PERSONAL INJURY,
- 3 PROPERTY LOSS,";
- 4 line 5, after "8", insert "SETS FORTH THE EXCLUSIVE PROCEDURE THAT
- 5 SHALL";
- 6 line 21, strike "PROPERTY." and substitute "PROPERTY, AND ANY PRIOR
- 7 OWNER OF REAL PROPERTY, OTHER THAN A CLAIMANT, AT THE TIME THE
- 8 DESCRIBED WORK WAS PERFORMED.".
- 9 Page 5, strike line 1 and substitute the following:
- 10 "DEFECTIVE AND THE DAMAGES CLAIMED TO HAVE BEEN CAUSED BY THE
- 11 CONSTRUCTION DEFECT.";
- 12 strike lines 11 through 15;
- 13 line 16, strike "(c)" and substitute "(b)";



14 strike line 24 and substitute the following:

15 "TO THE DEFECT AND THE NATURE AND EXTENT OF THE DAMAGES CLAIMED  
16 TO HAVE BEEN CAUSED BY THE DEFECT. HOWEVER, NOTHING IN THIS  
17 PARAGRAPH (b) SHALL BE".

18 Page 9, strike lines 7 through 18 and substitute the following:

19 "(6) IN ANY CLAIM ALLEGING A CONSTRUCTION DEFECT, A  
20 CLAIMANT SHALL IN NO CIRCUMSTANCE RECOVER DAMAGES, INCLUDING  
21 DAMAGES THAT MAY OTHERWISE BE AWARDED UNDER THE PROVISIONS OF  
22 THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6,  
23 C.R.S., OR DAMAGES FOR NONECONOMIC LOSS OR INJURY AS DEFINED IN  
24 SECTION 13-21-102.5, GREATER THAN THE ACTUAL ECONOMIC DAMAGES  
25 CAUSED BY THE CONSTRUCTION DEFECT, RELOCATION COSTS, INTEREST,  
26 AND SUCH COSTS OF SUIT AND REASONABLE ATTORNEY FEES AS MAY BE  
27 AWARDED PURSUANT TO CONTRACT OR APPLICABLE LAW UNLESS A  
28 JUDGE OR ARBITRATOR FINDS BEYOND A REASONABLE DOUBT IN AN  
29 EVIDENTIARY HEARING HELD PRIOR TO A JURY'S DETERMINATION OF ANY  
30 ISSUE RELATING TO LIABILITY OR DAMAGES THAT A CONSTRUCTION  
31 PROFESSIONAL ACTED FRAUDULENTLY AND IN BAD FAITH IN THE  
32 CONSTRUCTION OF IMPROVEMENTS TO REAL PROPERTY AND THAT SUCH  
33 CONDUCT RESULTED IN PROPERTY LOSS OR DAMAGE. AS USED IN THIS  
34 SUBSECTION (6), "ACTUAL ECONOMIC DAMAGES" MEANS THE DIMINUTION  
35 IN VALUE OF REAL PROPERTY AS A RESULT OF THE ALLEGED CONSTRUCTION  
36 DEFECT OR THE REASONABLE COST TO REPAIR THE ALLEGED  
37 CONSTRUCTION DEFECT, WHICHEVER IS LESS."

38 Page 13, after line 3, insert the following:

39 "SECTION 2. 6-1-105, Colorado Revised Statutes, is amended  
40 BY THE ADDITION OF A NEW SUBSECTION to read:

41 **6-1-105. Deceptive trade practices.** (2.5) IT SHALL NOT BE A  
42 DECEPTIVE TRADE PRACTICE TO REPRESENT THAT AN IMPROVEMENT TO  
43 REAL PROPERTY COMPLIES WITH THE APPLICABLE BUILDING CODE OR  
44 INDUSTRY STANDARD IF DURING THE COURSE OF CONSTRUCTION OF SUCH  
45 IMPROVEMENT THE GOVERNING BUILDING DEPARTMENT OR EQUIVALENT



46 GOVERNMENTAL AGENCY ISSUES A BUILDING PERMIT OR CERTIFICATE OF  
47 OCCUPANCY, OR ITS EQUIVALENT, AS ESTABLISHED BY THE LAW OF THE  
48 GOVERNING JURISDICTION THAT HAS AUTHORITY OVER THE CONSTRUCTION  
49 OF THE IMPROVEMENT. A TECHNICAL VIOLATION OF AN APPLICABLE  
50 BUILDING CODE SHALL NOT GIVE RISE TO A DECEPTIVE TRADE PRACTICE  
51 CLAIM UNDER THIS ARTICLE. NOTHING IN THIS SECTION SHALL BE  
52 CONSTRUED TO CREATE AN ADDITIONAL OR SEPARATE CAUSE OF ACTION  
53 AGAINST A GOVERNING JURISDICTION OR ITS AUTHORIZED AGENTS  
54 RELATED TO ITS ACTIONS UNDER THIS SECTION.

55           **SECTION 3.** The introductory portion to 13-80-104 (1) (c),  
56 Colorado Revised Statutes, is amended to read:

57           **13-80-104. Limitation of actions against architects,**  
58 **contractors, builders or builder vendors, engineers, inspectors, and**  
59 **others.** (1) (c) Such actions shall include any and all actions in tort,  
60 contract, indemnity, WARRANTY, INCLUDING, BUT NOT LIMITED TO,  
61 WARRANTY TO REPAIR OR REPLACE DEFECTIVE GOODS OR SERVICES, or  
62 contribution, or other actions for the recovery of damages for:".

63 Renumber succeeding sections accordingly.

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