

Deliver to
 Senator:
 Balmer
 Holbert
 Aguilar
 Baumgardner
 Heath
 Jahn
 Neville
 Newell
 Woods

Sponsor:
 Scheffel

SB177 L.019

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business, Labor, & Technology.SB15-177 be amended as follows:

1 Amend printed bill, page 6, line 23, strike "CONTAIN a general description
 2 of the following:" and substitute "a general description of the following
 3 CONTAIN:".

4 Page 6, strike lines 24 through 27.

5 Strike page 7.

6 Page 8, strike lines 1 through 3 and substitute:

7 "(I) A GENERAL DESCRIPTION OF the nature of the action
 8 CONSTRUCTION DEFECT CLAIM and the relief sought; and

9 (II) A GOOD-FAITH ESTIMATE OF THE BENEFITS AND RISKS
 10 INVOLVED, INCLUDING the expenses and fees that the executive board
 11 anticipates will be incurred BY THE ASSOCIATION in prosecuting the action
 12 CONSTRUCTION DEFECT CLAIM, IN SUBSTANTIALLY THE FOLLOWING FORM:

13 1. IF THE ASSOCIATION DOES NOT FILE A CLAIM BY
 14 _____ [DATE], THE CLAIM CANNOT BE FILED AT ALL
 15 UNDER THE APPLICABLE STATUTE OF LIMITATION, STATUTE
 16 OF REPOSE, OR BOTH.

17 2. IF THE ASSOCIATION PREVAILS, THE EXECUTIVE
 18 BOARD EXPECTS THAT THE ASSOCIATION MAY RECOVER
 19 FROM THE DEFENDANT(S) AN AMOUNT BETWEEN \$ _____
 20 AND \$ _____.

21 3. THE EXECUTIVE BOARD INTENDS TO ENTER INTO
 22 A CONTINGENCY FEE ARRANGEMENT WITH THE ATTORNEYS
 23 REPRESENTING THE ASSOCIATION, UNDER WHICH, OF THE
 24 AMOUNT THE ASSOCIATION RECOVERS FROM THE
 25 DEFENDANT(S), THE ATTORNEYS WILL BE PAID A
 26 CONTINGENCY FEE EQUAL TO _____ PERCENT OF THE (NET)
 27 (GROSS) RECOVERY. THE EXECUTIVE BOARD ESTIMATES
 28 THAT, IN ADDITION TO ATTORNEY FEES, THE ASSOCIATION
 29 WILL INCUR COSTS TOTALING APPROXIMATELY \$ _____
 30 FOR CONSULTANTS, EXPERT WITNESSES, DEPOSITIONS,
 31 FILING FEES, AND OTHER EXPENSES OF LITIGATION.

32 4. IF THE ASSOCIATION MAKES A CLAIM AND DOES
 33 NOT WIN, THE EXECUTIVE BOARD EXPECTS THAT THE
 34 ASSOCIATION WILL HAVE TO PAY FOR ITS OWN ATTORNEY



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FEES, CONSULTANT FEES, EXPERT WITNESS FEES, AND OTHER COSTS (THE AMOUNT LISTED IN PARAGRAPH 3 ABOVE) PLUS THE DEFENDANT'S CONSULTANT FEES, EXPERT WITNESS FEES, AND COURT COSTS.

5. IF THE ASSOCIATION DOES NOT RECOVER FROM THE DEFENDANT(S), IT MAY HAVE TO PAY TO REPAIR OR REPLACE THE CLAIMED DEFECTIVE CONSTRUCTION WORK. IN ADDITION, THE ASSOCIATION MAY HAVE TO PAY THE DEFENDANTS' ATTORNEY FEES.

6. UNTIL THE DEFECTIVE CONSTRUCTION WORK IS REPAIRED OR REPLACED, OR UNTIL THE CONSTRUCTION DEFECT CLAIM IS CONCLUDED, THE MARKET VALUE OF THE AFFECTED UNITS WILL BE ADVERSELY AFFECTED.

7. UNTIL THE DEFECTIVE CONSTRUCTION WORK IS REPAIRED OR REPLACED, OR UNTIL THE CLAIM IS CONCLUDED, OWNERS OF THE AFFECTED UNITS WILL HAVE DIFFICULTY REFINANCING AND PROSPECTIVE BUYERS OF THE AFFECTED UNITS WILL HAVE DIFFICULTY OBTAINING FINANCING. IN ADDITION, CERTAIN FEDERAL UNDERWRITING STANDARDS OR REGULATIONS PREVENT REFINANCING OR OBTAINING A NEW LOAN IN PROJECTS WHERE A CONSTRUCTION DEFECT IS CLAIMED. IN ADDITION, CERTAIN LENDERS AS A MATTER OF POLICY WILL NOT REFINANCE OR PROVIDE A NEW LOAN IN PROJECTS WHERE A CONSTRUCTION DEFECT IS CLAIMED."

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