

**STATE
FISCAL IMPACT**

Drafting Number: LLS 14-0696	Date: May 2, 2014
Prime Sponsor(s): Sen. Ulibarri; Scheffel Rep. Singer; DelGrosso	Bill Status: Senate SVMA Fiscal Analyst: Josh Abram (303-866-3561)

SHORT TITLE: COMMON INT COMMUNITY ARBITRATE CONST DEFECT LITIG

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue		
State Expenditures	Minimal workload decrease.	
FTE Position Change		
Appropriation Required: None		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

This bill requires that a Home Owners' Association (HOA) use mediation or third-party arbitration before a lawsuit can be filed in disputes involving construction defects. If an HOA had bylaws that required arbitration at the time of construction and the HOA makes a claim of defective construction, the HOA must adhere to that original policy to engage third-party arbitration. The arbitration must take place in the judicial district in which the community is located, and the arbitrator must:

- be a neutral third party;
- make certain disclosures before being selected; and
- be selected pursuant to the HOA's governing documents if possible, or in accordance with the uniform arbitration act.

The bill requires that before a construction defect lawsuit is filed, the executive board of the HOA must send advance notice to all unit owners, together with a disclosure of the projected costs, duration, and financial impact of the litigation, and must obtain the written consent of a majority of the unit owners.

Prior to the purchase and sale of property in a common interest community, the bill requires that a disclosure notice inform the purchaser that he or she is required to become a member of the HOA, and be subject to its rules and bylaws.

State Expenditures

The bill results in a minimal workload reduction in the State Judicial Branch. Prior to filing any lawsuit as a result of alleged construction defects, the bill requires that HOAs engage in third party arbitration or mediation, therefore reducing the number of suits that are initiated in state courts.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to causes of action accruing on or after that date.

State and Local Government Contacts

Counties
Local Affairs

Municipalities
Regulatory Agencies

Judicial
Secretary of State