

**FINAL  
FISCAL NOTE**

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<b>Drafting Number:</b> LLS 14-0696	<b>Date:</b> June 1, 2014
<b>Prime Sponsor(s):</b> Sen. Ulibarri; Scheffel Rep. Singer; DelGrosso	<b>Bill Status:</b> Postponed Indefinitely
	<b>Fiscal Analyst:</b> Josh Abram (303-866-3561)

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**SHORT TITLE:** COMMON INT COMMUNITY ARBITRATE CONST DEFECT LITIG

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
<b>State Revenue</b>		
<b>State Expenditures</b>	Minimal workload decrease.	
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> 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 was postponed indefinitely by the Senate Judiciary Committee on May 7, 2014.

**State and Local Government Contacts**

Counties  
Local Affairs

Municipalities  
Regulatory Agencies

Judicial  
Secretary of State