

STATE and LOCAL FISCAL IMPACT

Drafting Number: LLS 13-0137**Date:** January 31, 2013**Prime Sponsor(s):** Sen. Scheffel**Bill Status:** Senate Judiciary

Rep. DelGrosso

Fiscal Analyst: Alex Schatz (303-866-4375)

TITLE: CONCERNING REAL PROPERTY CONSTRUCTION DEFECT ACTIONS, AND, IN CONNECTION THEREWITH, ENACTING THE "TRANSIT-ORIENTED DEVELOPMENT CLAIMS ACT OF 2013".

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
State Expenditures	See State Expenditures section.	
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2013-2014: None required.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

This bill establishes legal procedures and limitations related to construction defect claims. Provisions in the statute of repose for construction professionals, which bars claims against a construction professional more than 6 years after substantial completion of a construction project, are modified with respect to third-party claims.

The bill particularly concerns transit-oriented development (TOD). For the purposes of the bill, TOD is construction-related activity associated with multifamily residential or mixed-use improvements to property within one-half mile of a bus or passenger rail stop. Construction professionals are immune from claims related to noise, odors, light, and other environmental conditions related to TOD.

Construction professionals have a right to repair alleged damage from construction defects in a TOD. The claimant must send a notice of claim to the construction professional and cooperate with efforts to perform repairs. The construction professional also has the option to make a cash offer in lieu of repairs. If the claimant rejects a cash offer or is unsatisfied with repairs, or if the construction professional fails to timely complete repairs, legal action may be initiated, generally subject to binding arbitration.

State Expenditures

The bill has minimal effect on the workload of trial courts (Judicial Branch) and the Department of Law. Disputes regarding standing to sue under the amended statute of repose, as well as the procedure for selection of an arbitrator, may result in a minimal increase in the number of case filings and the amount of court time required to resolve the issues presented. The Department of Law will experience a minimal workload increase to interpret the bill and advise client agencies appropriately, particularly the Department of Transportation. Workload increases in state agencies will be addressed within the scope of existing duties and do not require new appropriations.

Local Government Impact

In general, the bill accommodates standard construction practices and has minimal fiscal impact on local governments. It has no direct impact on local governments but may affect the rate and content of land development proposals in their jurisdiction. Immunities for construction professionals and the notice of claim process may prompt an increase in TOD proposals, with an increase in associated revenue (*e.g.*, building permits) and expenditures (*e.g.*, plan review). However, the same immunities and barriers to recovery may decrease local government participation in projects where local government capital is at risk.

Departments Contacted

Judicial
Counties
Law

Local Affairs
Municipalities
Transportation

Personnel and Administration
Regulatory Agencies
District Attorneys