

Assembly Bill 1903

Construction Defect Liability Reform

Assemblymember Buffy Wicks (AD-14)

SUMMARY

AB 1903 would increase the amount of homeownership housing built in California by reducing construction defect litigation, while ensuring homeowners get speedier repairs.

ISSUE

California's residential construction defect law, enacted through SB 800 (2002), was intended to create a fair and efficient process to resolve construction defect claims while giving builders the opportunity to repair problems before litigation occurs. The premise was simple: a defect is identified by the homeowner, the builder is responsible to repair it, and if the repair does not occur or is not approved, the homeowner can sue the developer.

However, over time, the system has become imbalanced in favor of expensive litigation, instead of timely repair. There are several reasons for this, including that:

- The right-to-repair process is frequently bypassed, as lawsuits are often filed first and then stayed while the repair process is delayed or obstructed;
- Notices of claim frequently lack basic information about the alleged defect, making inspections and repairs difficult;
- Claims can proceed even when a defect has not caused any actual damage, encouraging costly and invasive investigations that search for theoretical defects rather than addressing real problems, and allowing litigants to seek unlimited damages that bear no relation to the actual damage that has occurred;
- Even when a builder completes repairs, the law does not provide a release from liability, meaning litigation will still proceed; and
- Homeowners' associations may initiate construction defect litigation affecting individual homeowners without a vote of the membership, even though those lawsuits can significantly affect property values and homeowners' finances.

As a result, homeowners often face years of litigation rather than having problems with their homes resolved quickly through repairs. Additionally, the costs and uncertainty affiliated with litigation have become a substantial impediment to the construction of condominiums, which are an essential entry-level homeownership option. As a result, the construction of condominiums has decreased 75% since the first years after SB 800 passed.

SOLUTION

AB 1903 restores the original intent of the law by strengthening the right to repair, improving transparency in claims, and ensuring disputes are resolved efficiently. This legislation restores balance to the construction defect process by:

Strengthening the Right to Repair

- Requires completion of the pre-litigation repair process before any lawsuit may be filed.
- Improves the notice of claim process by requiring claimants to identify the location and observable evidence of alleged defects.

Ensuring Claims Involve Actual Damage

- Restores the principle that a defect claim must involve damage beyond the defective component itself.
- Prevents recovery of investigative costs for speculative defect claims.

Encouraging Repairs Instead of Litigation

- Establishes a developer option to have third-party enhanced quality control inspections during construction.
- For projects that receive a third-party certification that they were built to proper standards, enables builders who repair defects have the ability to obtain a release once repairs are completed.

Increasing Transparency in HOA Litigation

- Requires HOA members to be informed and vote before an association files construction defect litigation affecting their homes.

By correcting the imbalance in the current system, AB 1903 will ensure that homeowners get the repairs they need in a timely way, while also making it more economically feasible to build condominiums – creating more entry-level homeownership opportunities for the people of California.

SUPPORT

California Building Industry Association (sponsor)
Bay Area Council (sponsor)
California YIMBY (sponsor)
Council of Infill Builders (sponsor)
Habitat for Humanity California (sponsor)
Housing Action Coalition (sponsor)
SPUR (sponsor)

CONTACT

Steve Wertheim
Office of Assemblymember Wicks
(916) 319-2014
steve.wertheim@asm.ca.gov

