

OREGON TRIAL LAWYERS ASSOCIATION

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**Testimony in Opposition to HB 3432
Before the House Committee on Rules
Arthur Towers, Political Director
Oregon Trial Lawyers Association
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Thank you for the opportunity to testify today in opposition to HB 3432. As you know OTLA members are attorneys who fight for underdogs, and in this instance we stand for homeowners and potential homeowners who may be sold defective poisonous homes.

We oppose HB 3432 because:

- **The bill has absolutely no provisions mandating that affordable housing be built if the bill were to pass.**
- **HB 3432 diminishes the rights of consumers to be protected from damage to the biggest investment they will make in their lives.**
- **The most significant aspect of consumer protection in HB 3432 is actually not part of the bill. Instead, a rulemaking process will set the level of protections -- not the legislature.**
- **First-time Buyers Could Be Stuck With Homes That Are Too Toxic to Sell or to Live In**

In 2007, the legislature had a significant debate about the need to extend the amount of time that homeowners have to sue in the case of a construction defect. The most common construction defect is mold. Usually mold is not detected until 7-9 years after construction is completed. This is why homeowners have ten years after the date of substantial completion to file suit for shoddy construction.

The issue is very serious because the damage would be to the most important investment many families ever make. Home ownership is how many families build wealth. **Homes that are contaminated with mold can become too toxic to live in and too toxic to sell. Desperate homeowners need to have the right to hold negligent construction firms accountable.**

The intentions of the sponsors are laudable. They seek to increase the housing stock for first time homebuyers, specifically in the condo market. Because we support the goal of affordable housing, and out of respect for the sponsors of the bill, we have been in a number of negotiating sessions with stakeholders to discuss how to preserve consumer rights while loosening standards for developers to build condos (regardless of price point). We are working hard to get to a position where we can support the bill, but there is still a long ways to go.

Nothing in House Bill 3432 requires developers to build affordable condos. The relaxation of safety standards would apply to all condominiums and all residential planned communities, including those comprised of single family units. If the market is still hottest for hotel construction, commercial construction, construction of rental units, and construction of luxury condos, nothing in HB3432 mandates construction of any type of affordable housing.

First-time buyers could be stuck with homes that are too toxic to sell or to live in. The bill shortens the timeline on which homeowners and homeowners' associations have to sue developers from ten years to six years. Six years seems like an arbitrary number, but it is not. The primary impact of a construction defect in Oregon is mold. The mold growing inside of walls and ceilings is often undetected until seven-nine years after construction is completed. If the mold does not manifest itself within 6 years, then the owner of a home that becomes toxic in year 7 is unable to sue the responsible parties.

The bill has been improved from earlier versions to include a requirement that the building envelope be inspected. However, those requirements are extremely vague and overbroad. For instance, none of the professionals who would conduct the inspection are even required to have insurance.

Under HB 3432 homebuilders would go through a special inspection of the envelope of the building. **However, the specifics would be in rule, not statute.**

HB 3432 puts an additional unfair burden on homeowners who buy defective homes. The bill requires homeowners associations to meet double majority requirements in order to attempt to hold negligent developers accountable. Homeowners' Associations already have justifiably strict operating standards to meet under state law.

HB 3432 would require the association to gather written approval from 50%+1 of all homeowners to file a suit to recover compensation for negligent construction. This 50%+1 requirement would be in place even if the developer were to still own unsold units. This gives developers a tool to block lawsuits in which they are a liable party.

We urge you to vote No on HB 3432.