

## HB 3746 A STAFF MEASURE SUMMARY

### Senate Committee On Housing and Development

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**Meeting Dates:** 5/5, 5/12, 5/19

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#### WHAT THE MEASURE DOES:

The measure reforms the process for handling construction defect claims, particularly for homeowners associations (HOAs) and condominium associations. It sets time limits within which a homeowners or condominium association may bring a tort claim for construction defects. The measure also mandates independent inspections for moisture intrusion at two key milestones, two years and six years after substantial completion, and requires the developer to provide inspection results to the association.

#### Detailed Summary:

- Defines “substantial completion” as the earliest of the following events:
  - The date when the contractee, in writing, accepts that the construction, alteration, or repair of the improvement—or its designated part—has reached a state fit for its intended use. If there is no written acceptance, then the date when acceptance is given for the completed work.
  - The date a public body issues a certificate of occupancy for the improvement.
  - The date when the owner begins to occupy or use the improvement for its intended purpose.
- Sets the time limits within which a tort action must be initiated by a HOA or association of unit owners
  - Requires a claim to be filed within seven years after either substantial completion, alteration, repair, or abandonment; or
  - If defect is discovered later—more than six but less than seven years after substantial completion or abandonment—one year from the date of discovery to initiate the action.
- Requires approval at a board of directors meeting before a homeowners or condominium association starts or intervenes in litigation concerning a defect.
- Specifies board of directors meeting requirements and the contents and timelines for sending a notice to each owner and every person it considers responsible for the defect.
- Directs board of directors to cause an independent inspection of the condominium for moisture intrusion before the end of the second year following the condominium’s substantial completion (paid for from the reserve account for maintaining, repairing, and replacing common elements) and before the end of the sixth year following the condominium’s substantial completion.
- Requires declarant to deliver to the association results from an independent inspection for moisture intrusion and the name of the person who performed the inspection.

*Fiscal impact: Has minimal fiscal impact*

*Revenue impact: No revenue impact*

*HOUSE VOTES: Ayes, 46; Nays, 10*

#### ISSUES DISCUSSED:

#### EFFECT OF AMENDMENT:

No amendment.

#### BACKGROUND:

In Oregon, condominiums are primarily governed by the Oregon Condominium Act, codified in Oregon Revised Statutes (ORS) Chapter 100. This comprehensive statute outlines the creation, ownership, and management of condominium properties within the state. To establish a condominium, a declaration must be recorded, detailing

property descriptions, unit boundaries, common elements, and any restrictions. Upon forming a condominium, an Association of Unit Owners (AUO) is created to manage and operate the property. All unit owners automatically become members of this association. The AUO must adopt bylaws that govern its operations, including procedures for meetings, voting rights, and the election of a board of directors. Developers must provide purchasers with a condominium disclosure statement and a unit sales agreement, ensuring buyers are informed about the property and their rights. When existing buildings are converted into condominiums, developers must follow specific procedures to protect the rights of existing tenants, as outlined in the Oregon Condominium Act. Condominium unit owner associations are required to file Annual Reports with the Oregon Real Estate Agency.