

HB 3746 A STAFF MEASURE SUMMARY
House Committee On Housing and Homelessness

Carrier: Rep. Breese-Iverson

Action Date: 04/09/25

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 10-1-1-0

Yeas: 10 - Andersen, Breese-Iverson, Dobson, Edwards, Fragala, Gamba, Javadi, Levy E, Mannix, Marsh

Nays: 1 - Sosa

Exc: 1 - Helfrich

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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Meeting Dates: 3/12, 4/2, 4/7, 4/9

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.

ISSUES DISCUSSED:

- Condominium defect liability laws and the decline of condominium building
- HB 3432 (2019) intent and history
- Statute of limitations for condominium defects and litigation impacts
- Preventative inspections by different entities, schedules, and costs

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- Consumer warranties and the quality of housing
- Setting income level thresholds
- Prerequisites for litigation for homeowners associations

EFFECT OF AMENDMENT:

The amendment extends the period to seven years to file a lawsuit over construction defects in common property. It outlines steps for homeowners associations (HOAs) to follow when considering legal action, including required notices to homeowners and responsible parties, and specific timelines for holding meetings to discuss these actions. The amendment calls for specialized moisture inspections at set intervals after a building's completion.

Detailed Summary:

- Extends limitation for a tort action for HOAs from six to seven years for construction defects, but if the defect is discovered in the final year, between year six and seven, they have one additional year from the discovery date to file the suit.
- Removes requirement that owners representing a majority of the lots approve in writing before HOAs initiate or intervene in litigation or administrative proceedings regarding a matter that results from a defect in, or damage arising from a defect in, common property or common elements.
- Modifies process and requirements for HOAs to initiate or intervene in litigation or administrative proceedings related to construction defects.
- Allows HOA to file or get involved in a lawsuit or administrative proceeding to recover damages for construction defects if
 - the defect is a deficiency, an inadequacy or an insufficiency arising out of or relating to the construction, alteration, or repair of a residence.
 - the HOA board approves the decision at a formal meeting.
- Requires the formal meeting to occur
 - at least 90 days after the HOA sends the first notice to all property owners.
 - after sending a second notice by first class mail with a certificate of mailing.
 - after sending a third notice by first class mail, at least 15 days before the meeting.
- Requires notice sent to homeowners to include
 - statement that the HOA believes there is a defect in the common property,
 - detailed description of the defect,
 - identification of the parties that the HOA believes are responsible for the defect,
 - names of each board member and a way to contact each of them electronically or by mail, and
 - warning on potential limitations to sale.
- Provides language for warning on potential limitations to sale.
- Directs HOA to send a copy of notice by certified mail to all parties considered responsible for the defect in addition to any notice of defect.
- Directs board of directors to have an independent inspection of the condominium for moisture intrusion during the second and sixth year following the condominium's substantial completion instead of semiannually.
- Removes provisions on inspections by experts and remediation of defects.
- Requires declarant to deliver at the turnover meeting results from an independent inspection for moisture intrusion and the name of the person who performed the inspection.

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

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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.