

SENATE COMMITTEE OF REFERENCE REPORT

	April 10, 2025
Chair of Committee	Date

Committee on Local Government & Housing.

After consideration on the merits, the Committee recommends the following:

HB25-1272 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend reengrossed bill, page 4, line 27, strike "(4.5)" and substitute
2 "(4.5), (5.5)".

3 Page 5, after line 4 insert:

4 "(5.5) "PROGRAM CLAIM" MEANS ALL ACTIONS FOR DAMAGES,
5 INDEMNITY, OR CONTRIBUTION BROUGHT AGAINST A CONSTRUCTION
6 PROFESSIONAL TO ASSERT A CLAIM, COUNTERCLAIM, CROSS-CLAIM, OR
7 THIRD-PARTY CLAIM FOR DAMAGES OR LOSS TO, OR THE LOSS OF USE OF,
8 REAL OR PERSONAL PROPERTY FOR WHICH THE BUILDER IS A PARTICIPANT
9 IN THE PROGRAM OR FOR PERSONAL INJURY CAUSED BY A DEFECT IN THE
10 DESIGN OR CONSTRUCTION OF AN IMPROVEMENT TO REAL PROPERTY FOR
11 WHICH THE BUILDER IS A PARTICIPANT IN THE PROGRAM."

12 Page 5, line 22, strike "VERISON" and substitute "VERSION".

13 Page 8, line 13, after "SALE." insert "AFTER RECORDING A NOTICE OF
14 ELECTION TO PARTICIPATE, A BUILDER MAY WITHDRAW FROM THE
15 PROGRAM ONLY BEFORE THE ISSUANCE OF THE LAST CERTIFICATE OF
16 OCCUPANCY FOR THE PROJECT."

17 Page 8, strike lines 20 and 21 and substitute:

18 "(II) FOR A PROGRAM CLAIM."

19 Page 9, line 19, after "LIMITATION" insert "OR REPOSE".

20 Page 10, strike lines 15 through 18 and substitute:

- 1 "(6) A PERSONAL SHALL NOT ASSERT A PROGRAM CLAIM UNLESS
2 THE CLAIM HAS".
- 3 Page 11, strike lines 6 through 14.
- 4 Page 11, line 15, strike "(b)" and substitute "(7) (a)".
- 5 Page 12, line 3, strike "(c)" and substitute "(b)".
- 6 Page 12, line 4, strike "(7)(b)" and substitute "(7)(a)".
- 7 Page 12, line 5, after "ALL" insert "REASONABLE".
- 8 Page 12, line 6, after "DAMAGES." insert "THE STATUTE OF LIMITATIONS
9 AND REPOSE SHALL BE TOLLED FROM THE DATE THE CLAIMANT FIRST
10 PURSUED A REMEDY AVAILABLE UNDER THE WARRANTY FOR NO MORE
11 THAN ONE YEAR OR UNTIL THE COMPLETION OF THE WARRANTY PROCESS,
12 WHICHEVER IS LONGER".
- 13 Page 12, line 7, strike "(d)" and substitute "(c)".
- 14 Page 12, strike lines 9 and 10 and substitute:
- 15 "(8) (a) FOR PROGRAM CLAIMS, A CONSTRUCTION PROFESSIONAL
16 WHO MAKES A".
- 17 Page 12, line 11, strike "SECTION 13-20-803.5" and substitute
18 "SUBSECTION (9) OF THIS SECTION".
- 19 Page 12, strike lines 19 and 20 and substitute:
- 20 "(b) A CONSTRUCTION PROFESSIONAL IS NOT LIABLE".
- 21 Page 14, after line 10 insert:
- 22 "(d) THE AFFIRMATIVE DEFENSES SET FORTH IN THIS SUBSECTION
23 (8) ARE IN ADDITION TO, AND SHALL NOT LIMIT, IMPAIR, REPLACE, OR
24 OTHERWISE AFFECT, ANY OTHER DEFENSE AVAILABLE TO A CONSTRUCTION
25 PROFESSIONAL UNDER STATUTE OR COMMON LAW".
- 26 Page 14, strike lines 11 through 13.

1 Page 14, line 14, strike "PURSUANT TO THIS SECTION," and substitute:

2 "(9) (a) FOR PROGRAM CLAIMS,".

3 Page 14, line 14, after "PROFESSIONAL" insert "AND THE INSURER, AS
4 DEFINED IN SECTION 10-1-102 (13), PROVIDING COVERAGE RELATED TO
5 THE CLAIM".

6 Page 15, after line 9 insert:

7 "(c) THE CONSTRUCTION PROFESSIONAL SHALL PROVIDE AN OFFER
8 PURSUANT TO SUBSECTION (9)(a)(I) OF THIS SECTION WITHIN NINETY DAYS
9 AFTER THE DEADLINE TO INSPECT THE PROPERTY AND CLAIMED DEFECT
10 PURSUANT TO SECTION 13-20-803.5 OR A WRITTEN RESPONSE PURSUANT
11 TO SUBSECTION (9)(a)(II) OR (9)(a)(III) OF THIS SECTION WITHIN THIRTY
12 DAYS AFTER THE DEADLINE TO INSPECT THE PROPERTY AND CLAIMED
13 DEFECT PURSUANT TO SECTION 13-20-803.5. NOTWITHSTANDING ANY
14 PROVISION IN A CONTRACT OR ANY REQUIREMENT IN THE GOVERNING
15 DOCUMENTS, IF A CONSTRUCTION PROFESSIONAL REQUESTS AN EXTENSION
16 TO PROVIDE AN OFFER PURSUANT TO SUBSECTION (9)(a)(I) OF THIS
17 SECTION AND THE CLAIMANT DOES NOT AGREE TO THE REQUESTED
18 EXTENSION, THE PARTIES SHALL DESIGNATE A MUTUALLY AGREEABLE
19 THIRD PARTY IN WRITING TO DETERMINE WHETHER THE REQUESTED
20 EXTENSION IS REASONABLE. NOTWITHSTANDING ANY OTHER PROVISION
21 IN THIS SECTION, THE TOTAL TIME TO PROVIDE AN OFFER MUST NOT
22 EXCEED TWO HUNDRED TEN DAYS AFTER THE DATE OF THE NOTICE OF
23 CLAIM BY THE CONSTRUCTION PROFESSIONAL PROVIDING AN OFFER
24 PURSUANT TO SUBSECTION (9)(a)(I) OF THIS SECTION.

25 (d) IF A CLAIMANT UNREASONABLY REJECTS A REASONABLE
26 WRITTEN OFFER OF SETTLEMENT MADE PURSUANT TO THIS SUBSECTION (9)
27 AND SUBSEQUENTLY COMMENCES AN ACTION AGAINST THE
28 CONSTRUCTION PROFESSIONAL, THE COURT MAY AWARD ATTORNEY FEES
29 AND COSTS TO THE CONSTRUCTION PROFESSIONAL.

30 (e) IF A CONSTRUCTION PROFESSIONAL FAILS TO MAKE A
31 REASONABLE WRITTEN OFFER OF SETTLEMENT PURSUANT TO THIS
32 SUBSECTION (9), THE LIMITATIONS ON DAMAGES AND DEFENSES TO
33 LIABILITY PROVIDED IN SUBSECTIONS (2), (5), (6), (7), AND (8) OF THIS
34 SECTION DO NOT APPLY, AND THE COURT MAY AWARD ATTORNEY FEES
35 AND COSTS TO THE CLAIMANT.

36 (f) (I) A CONSTRUCTION PROFESSIONAL'S WRITTEN OFFER OF
37 SETTLEMENT IS REASONABLE, AND A CLAIMANT'S REJECTION OF THE OFFER
38 IS UNREASONABLE, IF THE CLAIMANT RECOVERS A FINAL JUDGMENT IN AN
39 AMOUNT THAT IS LESS THAN THE AMOUNT OFFERED OR THE REASONABLE

- 1 VALUE OF THE REPAIR OFFERED BY THE CONSTRUCTION PROFESSIONAL.
2 (II) A CONSTRUCTION PROFESSIONAL'S WRITTEN OFFER OF
3 SETTLEMENT IS UNREASONABLE, AND A CLAIMANT'S REJECTION OF THE
4 OFFER IS REASONABLE, IF THE CLAIMANT RECOVERS A FINAL JUDGMENT IN
5 AN AMOUNT THAT EXCEEDS THE AMOUNT OFFERED OR THE REASONABLE
6 VALUE OF THE REPAIR OFFERED BY THE CONSTRUCTION PROFESSIONAL.".
- 7 Page 15, line 27, strike "CLAIM," and substitute "CLAIM OR EXPANDS THE
8 DEFINITION OF "ACTION" IN SECTION 13-20-802.5 (1).".
- 9 Page 16, strike lines 1 through 4.
- 10 Page 16, strike lines 14 and 15 and substitute "FOR PROGRAM CLAIMS,".
- 11 Page 20, line 8, strike "(a)".
- 12 Page 20, strike lines 11 through 27.
- 13 Page 21, strike lines 1 through 7.
- 14 Page 21, line 8, strike the second "(13)" and substitute "(13),".
- 15 Page 21, line 9, strike "CANCEL OR DENY A" and substitute "CANCEL,
16 DENY, OR REDUCE COVERAGE BASED ON ANY CLAIM FOR BENEFITS
17 COVERED BY AN EXISTING".
- 18 Page 22, line 27, before "MONETARY" insert "NET" and before
19 "PROCEEDS" insert "NET".

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