

Chapter: 87

Session: 2017 Regular Session

Topic: Lawsuits filed on behalf of condominiums; by-law requirements

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Overview

This act amends and clarifies how construction defect liability and claims are applied and asserts for common interest communities (“CIC”).

Section

- 1** **Definitions.** Adds definitions for the terms “construction defect claim,” which means causes of action based on initial design and construction on a CIC but not subsequent maintenance, and “development party,” which includes architects, contractors, subcontractors, and engineers performing work on common interest communities.
- 2** **Powers of unit owners’ associations.** Requires a CIC association to provide notice to unit owners and get the approval of unit owners before proceeding with construction litigation related to the CIC, but allows the association to intervene in litigation as a third party or assert a claim so long as the unit owners are notified within 90 days.
- 3** **Upkeep of common interest community.** Makes damages to common elements in a CIC the responsibility of the unit owner or the association who caused the damage, which allows the association to be responsible for a lack of maintenance and repair in common areas. This section also requires the board of directors for a CIC to have a maintenance plan and schedule, and gives existing CICs until January 1, 2019, to create a plan.
- 4** **Disclosure statement; general provisions; CIC created on or after August 1, 2010.** Requires a disclosure statement to include the maintenance plan and schedule required under section 3.
- 5** **Implied warranties.** Provides immunity to a contractor or other development party for losses and damages cause by the association’s failure to follow a maintenance plan or schedule required under section 3.

Section

- 6** **Rights of action; attorney's fees.** Requires construction defect claims between a CIC and another party to go to mediation before pursuing a claim, except when the parties have completed home warranty dispute resolution under section 327A.051.
- 7** **Effective date.** This section is effective on August 1, 2017, except that the maintenance plans and schedules CIC's are required to create are not required until January 1, 2019, as provided in section 3.