

**78B-4-513 Cause of action for defective construction.**

- (1) Except as provided in Subsection (2), an action for defective design or construction is limited to breach of the contract, whether written or otherwise, including both express and implied warranties.
- (2) An action for defective design or construction may include damage to other property or physical personal injury if the damage or injury is caused by the defective design or construction.
- (3) For purposes of Subsection (2), property damage does not include:
  - (a) the failure of construction to function as designed; or
  - (b) diminution of the value of the constructed property because of the defective design or construction.
- (4) Except as provided in Subsections (2) and (6), an action for defective design or construction may be brought only by a person in privity of contract with the original contractor, architect, engineer, or the real estate developer.
- (5) If a person in privity of contract sues for defective design or construction under this section, nothing in this section precludes the person from bringing, in the same suit, another cause of action to which the person is entitled based on an intentional or willful breach of a duty existing in law.
- (6) Nothing in this section precludes a person from assigning a right under a contract to another person, including to a subsequent owner or a homeowners association.

Enacted by Chapter 280, 2008 General Session