

Representative Stephen H. Urquhart proposes the following substitute bill:

CAUSE OF ACTION FOR DEFECTIVE

CONSTRUCTION

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

This bill creates limitations on a cause of action for defective construction.

Highlighted Provisions:

This bill:

- ▶ limits a cause of action for defective construction to a breach of contract action, unless there is certain other property damage, personal injury, or an intentional or willful breach of a legal duty; and
- ▶ addresses who may bring an action for defective construction.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-4-512, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:



26 Section 1. Section **78B-4-512** is enacted to read:

27 **78B-4-512. Cause of action for defective construction.**

28 (1) Except as provided in Subsection (2), an action for defective design or construction
29 is limited to breach of the contract.

30 (2) An action for defective design or construction may include damage to other
31 property or physical personal injury if the damage or injury is caused by the defective design or
32 construction.

33 (3) For purposes of this section, property damage does not include:

34 (a) the failure of construction to function as designed; or

35 (b) diminution of the value of the constructed property because of the defective design
36 or construction.

37 (4) Except as provided in Subsection (2), an action for defective design or construction
38 may be brought only by a person in privity of contract with the original contractor, architect,
39 engineer, or the real estate developer.

40 (5) If a person in privity of contract sues for defective design or construction under this
41 section, nothing in this section precludes the person from bringing, in the same suit, another
42 cause of action to which the person is entitled based on an intentional or willful breach of a
43 duty existing in law.

44 (6) Nothing in this section precludes a person from assigning a right under a contract to
45 another person, including to a subsequent owner or a homeowners association.

S.B. 220 1st Sub. (Green) - Cause of Action for Defective Construction

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
