

**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 or personal injury; 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:

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

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

(1) Except as provided in Subsection (2), an action for defective ~~§~~→ design or ←~~§~~
construction is limited

S.B. 220



28 to breach of the contract.

29 (2) An action for defective ~~§~~→ **design** or ←~~§~~ construction may include physical property
29a damage or

30 physical personal injury if the damage or injury is caused by the defective ~~§~~→ **design** or ←~~§~~
30a construction.

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

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

33 (b) diminution of the value of the constructed property because of the defective ~~§~~→ **design**
33a or ←~~§~~

34 construction.

35 (4) An action for defective ~~§~~→ **design** or ←~~§~~ construction may be brought only by a person
35a in privity of

36 contract with the original contractor ~~§~~→ , **architect, engineer,** ←~~§~~ or the real estate developer.

Legislative Review Note
as of 2-1-08 4:30 PM

Office of Legislative Research and General Counsel

S.B. 220 - 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.
