

**CAUSE OF ACTION FOR DEFECTIVE  
CONSTRUCTION**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: Stephen H. Urquhart

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**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

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*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 construction is limited



28 to breach of the contract.

29 (2) An action for defective construction may include physical property damage or  
30 physical personal injury if the damage or injury is caused by the defective 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  
34 construction.

35 (4) An action for defective construction may be brought only by a person in privity of  
36 contract with the original contractor or the real estate developer.

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

**Office of Legislative Research and General Counsel**