

# SENATE BILL REPORT

## SB 6409

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As Reported By Senate Committee On:  
Labor, Commerce & Financial Institutions, February 4, 2002

**Title:** An act relating to construction defect claims asserting property loss and damage.

**Brief Description:** Requiring an opportunity for a cure before an action on a construction defect may be filed.

**Sponsors:** Senators Prentice, Hargrove, Johnson, Rossi, Rasmussen, Honeyford, Gardner, Finkbeiner and Hale.

**Brief History:**

**Committee Activity:** Labor, Commerce & Financial Institutions: 1/21/02, 2/4/02 [DPS].

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### SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

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**Majority Report:** That Substitute Senate Bill No. 6409 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Keiser, Vice Chair; Franklin, Gardner, Hochstatter, Honeyford, Rasmussen, Regala and West.

**Staff:** Jack Brummel (786-7428)

**Background:** Contractors are required to carry liability insurance. They are facing increased costs for their insurance in part because insurers are concerned about the increased cost of construction defect litigation.

**Summary of Substitute Bill:** A claimant filing a construction defect suit must provide written notice to the construction professional 45 days before the suit is filed. The statute of limitations governing the time period allowed for commencing suit is in abeyance during this 45 day period. The construction professional must respond within 21 days of the notice and may offer to remedy the defect, compromise by payment, or dispute the claim. If a suit is filed, the claimant must, within 30 days of commencement, list the construction defects alleged and the construction professional responsible for each defect.

A condominium or homeowners' association filing a construction defect suit must notify all unit owners of the action and the expected expenses and fees accompanying it.

**Substitute Bill Compared to Original Bill:** The substitute bill clarifies that the personal injury and wrongful death claims are not subject to the limitations on actions contained in the act and that a "construction professional" can be a business entity. The substitute makes a number of technical changes.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This is needed to make insurance available. The carriers need to see that the builders are taking a pro-active approach. The industry is looking for the initial opportunity to fix the problem. The consumer can always go to court if they choose.

**Testimony Against:** This won't impact the insurance cost problem for contractors. It shifts the burden on to the consumer for defective workmanship.

**Testified:** PRO: Jody Slavic, Bob Camp, BIAW; Charlie Conner; Shelly Lucus Kennedy, McDonald Insurance Group; Steve Weheny; Kris Lawrence; Mel Sorensen, National Association of Independent Insurance Agents; Larry Stout; Kristen Sawin, AWB; Mark Johnson, NFIB; Gary Smith IBA. CONCERNS: Larry Shannon, WSTLA.