

STATE OF NEW YORK

8731

IN SENATE

January 7, 2026

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to certain actions arising from construction defects in condominiums

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The civil practice law and rules is amended by adding a new article 14-B to read as follows:

ARTICLE 14-B

CONDOMINIUM CONSTRUCTION DEFECT ACTIONS

Section 1450. Legislative declaration.

1451. Definitions.

1452. List of defects required.

1453. Notice of claim process.

1454. Restriction on construction defect negligence claims.

1455. Express warranty; not affected.

§ 1450. Legislative declaration. The legislature hereby finds, declares, and determines that changes in the law are necessary and appropriate concerning actions claiming damages, indemnity, or contribution in connection with alleged construction defects. It is the intent of the legislature that this article apply to these types of civil actions while preserving adequate rights and remedies for condominium owners who bring and maintain such actions.

§ 1451. Definitions. For the purposes of this article:

(a) "Action" means a civil action or an arbitration proceeding for damages, indemnity, or contribution brought against a construction professional to assert a claim, counterclaim, cross-claim, or third-party claim for damages or loss to, or the loss of use of, real or personal property or personal injury caused by a defect in the design or construction of an improvement to a condominium.

(b) "Actual damages" means the fair market value of the condominium without the alleged construction defect, the replacement cost of the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 condominium, or the reasonable cost to repair the alleged construction
2 defect, whichever is less, together with relocation costs, and, with
3 respect to residential property, other direct economic costs related to
4 loss of use, if any, interest as provided by law, and such costs of suit
5 and reasonable attorney fees as may be awardable pursuant to contract or
6 applicable law. "Actual damages" as to personal injury means those
7 damages recoverable by law.

8 (c) "Claimant" means a person other than the attorney general or the
9 district attorneys of the judicial districts of the state who asserts a
10 claim against a construction professional that alleges a defect in the
11 construction of an improvement to a condominium.

12 (d) "Construction professional" means an architect, contractor,
13 subcontractor, developer, builder, builder vendor, engineer, or inspec-
14 tor performing or furnishing the design, supervision, inspection,
15 construction, or observation of the construction of any improvement to a
16 condominium. If the improvement to a condominium is to a commercial
17 property, the term "construction professional" shall also include any
18 prior owner of the commercial property, other than the claimant, at the
19 time the work was performed. As used in this subdivision, "commercial
20 property" means property that is zoned to permit commercial, industrial,
21 or office types of use.

22 (e) "Notice of claim" means a written notice sent by a claimant to the
23 last known address of a construction professional against whom the
24 claimant asserts a construction defect claim that describes the claim in
25 reasonable detail sufficient to determine the general nature of the
26 defect, including a general description of the type and location of the
27 construction that the claimant alleges to be defective and any damages
28 claimed to have been caused by the defect.

29 § 1452. List of defects required. (a) In addition to the notice of
30 claim required by section fourteen hundred fifty-three of this article,
31 in every action brought against a construction professional, the claim-
32 ant shall file with the court or arbitrator and serve on the
33 construction professional an initial list of construction defects in
34 accordance with this section.

35 (b) The initial list of construction defects shall contain a
36 description of the construction that the claimant alleges to be defec-
37 tive. The initial list of construction defects shall be filed with the
38 court and served on the defendant within sixty days after the commence-
39 ment of the action or within such longer period as the court in its
40 discretion may allow.

41 (c) The initial list of construction defects may be amended by the
42 claimant to identify additional construction defects as they become
43 known to the claimant. In no event shall the court allow the case to be
44 set for trial before the initial list of construction defects is filed
45 and served.

46 (d) If a subcontractor or supplier is added as a party to an action
47 under this section, the claimant making the claim against such subcon-
48 tractor or supplier shall file with the court and serve on the defendant
49 an initial list of construction defects in accordance with this section
50 within sixty days after service of the complaint against the subcontract-
51 or or supplier or within such longer period as the court in its
52 discretion may allow. In no event shall the filing of a defect list
53 under this subdivision delay the setting of the trial.

54 § 1453. Notice of claim process. (a) No later than seventy-five days
55 before filing an action against a construction professional, or no later
56 than ninety days before filing the action in the case of a commercial

1 property, a claimant shall send or deliver a written notice of claim to
2 the construction professional by certified mail, return receipt
3 requested, or by personal service.

4 (b) Following the mailing or delivery of the notice of claim, at the
5 written request of the construction professional, the claimant shall
6 provide the construction professional and its contractors or other
7 agents reasonable access to the claimant's property during normal work-
8 ing hours to inspect the property and the claimed defect. The inspection
9 shall be completed within thirty days of service of the notice of claim.

10 (c) Within thirty days following the completion of the inspection
11 process conducted pursuant to subdivision (b) of this section, or within
12 forty-five days following the completion of the inspection process in
13 the case of a commercial property, a construction professional may send
14 or deliver to the claimant, by certified mail, return receipt requested,
15 or personal service, an offer to settle the claim by payment of a sum
16 certain or by agreeing to remedy the claimed defect described in the
17 notice of claim. A written offer to remedy the construction defect shall
18 include a report of the scope of the inspection, the findings and
19 results of the inspection, a description of the additional construction
20 work necessary to remedy the defect described in the notice of claim and
21 all damage to the improvement to the condominium caused by the defect,
22 and a timetable for the completion of the remedial construction work.

23 (d) Unless a claimant accepts an offer made pursuant to subdivision
24 (c) of this section in writing within fifteen days of the delivery of
25 the offer, the offer shall be deemed to have been rejected.

26 (e) A claimant who accepts a construction professional's offer to
27 remedy or settle by payment of a sum certain a construction defect claim
28 shall do so by sending the construction professional a written notice of
29 acceptance no later than fifteen days after receipt of the offer. If an
30 offer to settle is accepted, then the monetary settlement shall be paid
31 in accordance with the offer. If an offer to remedy is accepted by the
32 claimant, the remedial construction work shall be completed in accord-
33 ance with the timetable set forth in the offer unless the delay is
34 caused by events beyond the reasonable control of the construction
35 professional.

36 (f) If no offer is made by the construction professional or if the
37 claimant rejects an offer, the claimant may bring an action against the
38 construction professional for the construction defect claim described in
39 the notice of claim, unless the parties have contractually agreed to a
40 mediation procedure, in which case the mediation procedure shall be
41 satisfied prior to bringing an action.

42 (g) If an offer by a construction professional is made and accepted,
43 and if thereafter the construction professional does not comply with its
44 offer to remedy or settle a claim for a construction defect, the claim-
45 ant may file an action against the construction professional for claims
46 arising out of the defect or damage described in the notice of claim
47 without further notice.

48 (h) After the sending of a notice of claim, a claimant and a
49 construction professional may, by written mutual agreement, alter the
50 procedure for the notice of claim process described in this section.

51 (i) Any action commenced by a claimant who fails to comply with the
52 requirements of this section shall be stayed, which stay shall remain in
53 effect until the claimant has complied with the requirements of this
54 section.

55 (j) A claimant may amend a notice of claim to include construction
56 defects discovered after the service of the original notice of claim.

1 However, the claimant must otherwise comply with the requirements of
2 this section for the additional claims.

3 (k) For purposes of this section, actual receipt by any means of a
4 written notice, offer, or response prepared pursuant to this section
5 within the time prescribed for delivery or service of the notice, offer,
6 or response shall be deemed to be sufficient delivery or service.

7 (l) A claimant shall not recover more than actual damages in an
8 action.

9 § 1454. Restriction on construction defect negligence claims. (a) No
10 negligence claim seeking damages for a construction defect may be
11 asserted in an action if such claim arises from the failure to construct
12 an improvement to the condominium in substantial compliance with an
13 applicable building code or industry standard; except that such claim
14 may be asserted if such failure results in one or more of the following:

15 1. Actual damage to real or personal property;
16 2. Actual loss of the use of real or personal property;
17 3. Bodily injury or wrongful death; or
18 4. A risk of bodily injury or death to, or a threat to the life,
19 health, or safety of, the occupants of the residential condominium.

20 (b) Nothing in this section shall be construed to prohibit, limit, or
21 impair the following:

22 1. The assertion of tort claims other than claims for negligence;
23 2. The assertion of contract or warranty claims; or
24 3. The assertion of claims that arise from the violation of any stat-
25 ute or ordinance other than claims for violation of a building code.

26 § 1455. Express warranty; not affected. The provisions of this article
27 are not intended to abrogate or limit the provisions of any express
28 warranty or the obligations of the provider of such warranty. The
29 provisions of this article shall apply to those circumstances where an
30 action is filed asserting one or more claims for relief including a
31 claim for breach of warranty. The provisions of this article shall not
32 be deemed to require a claimant who is the beneficiary of an express
33 warranty to comply with the notice provisions of section fourteen
34 hundred fifty-three of this article to request ordinary warranty service
35 in accordance with the terms of such warranty. A claimant who requires
36 warranty service shall comply with the provisions of such warranty.

37 § 2. This act shall take effect immediately.