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Overview

This bill amends and clarifies how construction defect liability and claims are applied and asserts for common interest communities (“CIC”).

Section

- 1** **Definitions.** Adds definitions for the terms “construction defect claim,” which includes the initial design and construction on a CIC, and “development party,” which includes architects, contractors, subcontractors, and engineers performing work on common interest communities.
- 2** **Powers of unit owners’ associations.** Requires a CIC association to provide notice to unit owners and get the approval of unit owners before proceeding with construction litigation related to the CIC, but allows the association to intervene in litigation as a third party or assert a claim so long as the unit owners are notified within 75 days.
- 3** **Upkeep of common interest community.** Makes damages to common elements in a CIC the responsibility of the unit owner or the association who caused the damage, which allows the association to be responsible for a lack of maintenance and repair in common areas. This section also requires the board of directors for a CIC to have a maintenance plan and schedule and gives existing CICs until January 1, 2019, to create a plan.
- 4** **Tort and contract liability.** Provides an exception to the attorney’s fees awards statute for CICs for construction litigation.

Section

- 5 Disclosure statement; general provisions; CIC created on or after August 1, 2010.** Requires a disclosure statement to include the maintenance plan and schedule required under section 3.
- 6 Implied warranties.** Provides immunity to a contractor or other development party for losses and damages cause by the association's failure to follow a maintenance plan or schedule required under section 3.
- 7 Rights of action; attorney's fees.** Provides an exception to the attorney's fees awards statute for CICs for construction litigation and requires construction defect claims between a CIC and another party to go to mediation before pursuing a claim, except when the parties have completed home warranty dispute resolution under section 327A.051.
- 8 Effective date.** This section is effective on August 1, 2017, and applies to construction defect claims commenced on or after that date, except that the maintenance plans and schedules CIC's are required to create are not required until January 1, 2019, as provided in section 3.