

Issue Brief: CONSTRUCTION DEFECTS

HB 1381 by Rep. Gregory / SB 948 by Sen. Baxley

THE BACKGROUND :

The construction defects law (i.e. right to cure) was created in 2003 to keep claims out of the court room. An owner notified their contractor through a "notice of claim" of a problem on a project, the contractor inspected it, and they together determined the best course of action through conversation. The law worked because it provided an opportunity for the home builder to take corrective actions and repair alleged defects on past project. However, under current practices we see law firms issuing cookie cutter "notice of claims", many of which are hundreds of pages long, to contractors and their teams. The notices to contractors about the alleged defects often lack specificity by using broad language and not identifying the location of the defect. Further, offers by home builders to repair the alleged defects are routinely rejected as a small group of attorneys are looking for financial settlements instead of fixing the problem.

THIS LEGISLATION:

- Returns to the original intent of the construction defects law.
- Defines material violation as: A violation that exists within a completed building that has or may result in physical harm to a person or significant damage to the performance of the building or its systems.
- Requires that those who take a cause of action cite the specific building code that was alleged to have been violated.
- Requires a notice of claim to be made under oath, including the consultants retained by the claimant as well as the alleged cost of repair and/or damage due to the defect.
- Requires that the claim state a specific location of the alleged defect, in order for contractors to review, correct, and mitigate such defects from taking place in the future.
- Provides that the claimant provide the contractor with property maintenance records.
- Provides that if a claimant does not allow a contractor/home builder an opportunity to inspect the defect in the current statutory timeframe, then the claim for damages is rejected.

BOTTOM LINE: FHBA ASKS YOU TO VOTE "YES" on HB 1381 / SB 948!