

SENATE BILL NO. 450—COMMITTEE ON JUDICIARY

MARCH 27, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to constructional defects. (BDR 3-1063)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to constructional defects; revising provisions governing the damages which may be recovered in a cause of action for a constructional defect; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, an owner of a residence or appurtenance or certain other
2 persons may commence a civil action against a contractor, subcontractor, supplier
3 or design professional for certain defects in the residence or appurtenance after
4 providing notice of the defect to the contractor. (NRS 40.645) Existing law
5 provides that a claimant who commences a cause of action for a constructional
6 defect may recover certain damages. (NRS 40.655) This bill authorizes the claimant
7 to recover reasonable attorney’s fees and revises provisions governing costs which
8 may be recovered as part of the claimant’s damages in a cause of action for a
9 constructional defect.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. NRS 40.655 is hereby amended to read as follows:
2 40.655 1. Except as otherwise provided in NRS 40.650, in a
3 claim governed by NRS 40.600 to 40.695, inclusive, the claimant
4 may recover only the following damages to the extent proximately
5 caused by a constructional defect:
6 (a) *Any reasonable attorney’s fees;*
7 (b) The reasonable cost of any repairs already made that were
8 necessary and of any repairs yet to be made that are necessary to
9 cure any constructional defect that the contractor failed to cure and



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- 1 the reasonable expenses of temporary housing reasonably necessary  
2 during the repair;
- 3 ~~{(b)}~~ (c) The reduction in market value of the residence or  
4 accessory structure, if any, to the extent the reduction is because of  
5 structural failure;
- 6 ~~{(e)}~~ (d) The loss of the use of all or any part of the residence;
- 7 ~~{(d)}~~ (e) The reasonable value of any other property damaged  
8 by the constructional defect;
- 9 ~~{(e)}~~ (f) Any additional costs reasonably incurred by the  
10 ~~claimant for constructional defects proven by the~~ claimant,  
11 including, but not limited to, any costs and fees incurred for the  
12 retention of experts to:
- 13 (1) Ascertain the nature and extent of the constructional  
14 defects;
- 15 (2) Evaluate appropriate corrective measures to estimate the  
16 value of loss of use; and
- 17 (3) Estimate the value of loss of use, the cost of temporary  
18 housing and the reduction of market value of the residence; and
- 19 ~~{(f)}~~ (g) Any interest provided by statute.
- 20 2. *The amount of any attorney's fees awarded pursuant to*  
21 *this section must be approved by the court.*
- 22 3. If a contractor complies with the provisions of NRS 40.600  
23 to 40.695, inclusive, the claimant may not recover from the  
24 contractor, as a result of the constructional defect, ~~any damages~~  
25 *anything* other than ~~damages authorized~~ *that which is provided*  
26 pursuant to NRS 40.600 to 40.695, inclusive.
- 27 ~~{3-}~~ 4. This section must not be construed as impairing any  
28 contractual rights between a contractor and a subcontractor, supplier  
29 or design professional.
- 30 ~~{4-}~~ 5. As used in this section, "structural failure" means  
31 physical damage to the load-bearing portion of a residence or  
32 appurtenance caused by a failure of the load-bearing portion of the  
33 residence or appurtenance.
- 34 **Sec. 2.** The provisions of NRS 40.655, as amended by section  
35 1 of this act, apply to any claim that arises on or after the effective  
36 date of this act.
- 37 **Sec. 3.** This act becomes effective upon passage and approval.

