

JAN 19 2024

A BILL FOR AN ACT

RELATING TO CONSTRUCTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 672E-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]§672E-3[+]~~ **Notice of claim of construction defect.**

4 (a) A claimant, no later than ninety days before filing an
5 action against a contractor, shall serve the contractor with a
6 written notice of claim. The notice of claim shall ~~[describe]:~~

7 (1) State that the claimant is asserting a claim against
8 the contractor for a defect in the design,
9 construction, or remodeling of a dwelling or premises;
10 and

11 (2) Describe the claim in detail [and include the results
12 of any testing done.] and with sufficient
13 particularity and specificity to determine the
14 circumstances constituting the alleged construction
15 defect and damages resulting from the construction
16 defect; provided that a general statement that a



1 construction defect may exist shall be deemed to be
2 insufficient for purposes of this paragraph.

3 The notice of claim shall not constitute a claim under any
4 applicable insurance policy and shall not give rise to a duty of
5 any insurer to provide a defense under any applicable insurance
6 policy unless and until the process set forth in section 672E-5
7 is completed. Nothing in this chapter shall in any way
8 interfere with or alter the rights and obligations of the
9 parties under any liability policy.

10 (b) The claimant shall provide to the contractor the
11 notice of claim and evidence depicting the nature and cause of
12 the construction defect and the nature and extent of the repairs
13 necessary to correct the defect, including expert-generated
14 reports, photographs, videos, and the results of any testing
15 performed.

16 (c) Each claimant or class member shall comply with this
17 chapter, including allowing for inspection of each dwelling or
18 premise that is the subject of the claim in accordance with
19 section 672E-4.

20 ~~[(b)]~~ (c) A contractor served with a written notice of
21 claim shall serve any other appropriate subcontractor with



1 notice of the claim. The contractor's notice shall include the
2 claimant's written notice of claim.

3 [~~e~~] (d) After serving the notice of claim, a claimant
4 shall give to the contractor reasonable prior notice and an
5 opportunity to observe if any testing is [~~done~~] performed."

6 SECTION 2. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 2606

Report Title:

Housing; Construction Defects; Notices of Claims; Resolution Process; Claimant Requirements

Description:

Establishes additional requirements for notices of claims of construction defects.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

