

Date of Hearing: May 13, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 1903 (Wicks) – As Amended April 23, 2026

Policy Committee: Judiciary

Vote: 12 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill revises the prelitigation “right to repair” process and litigation procedures applicable to alleged residential construction defects, and establishes a new alternative framework under which a builder may have a condominium or townhouse “certified” through private third-party inspection during construction.

Specifically, this bill:

- 1) Modifies the prelitigation notice a claimant must provide to a builder to include detailed information.
- 2) Allows a builder to obtain a release or waiver of liability one year after the conclusion of a repair, and authorizes a builder to negotiate a full and general release in exchange for either a cash payment or repair.
- 3) Requires the court to grant a builder’s motion to dismiss a construction defect action if the claimant has not complied with the prelitigation requirements.
- 4) Requires a claimant to affirmatively demonstrate (a) a violation of the applicable performance standard, (b) appreciable, nonspeculative, present physical damage to another component of the building, (c) that the violation was caused by the original construction, and (d) that the claim is not subject to an affirmative defense.
- 5) Establishes that the construction defect title is the exclusive remedy for any claim arising out of deficiencies in residential construction, and prohibits an insurer from treating builder-funded repairs as voluntary payments for purposes of coverage, deductibles, or self-insured retentions.
- 6) Prohibits recovery of investigative costs in a construction defect action, prohibits extrapolation of claims, and limits component testing to conditions that would realistically be expected at the location of the component.
- 7) Limits a homeowner association’s standing to bring a construction defect claim to issues impacting the common area, and exempts an association and its officers and directors from breach of fiduciary duty liability for deciding not to file a construction defect action.
- 8) Establishes a new, optional “certified building” framework, applicable only to condominium projects and townhouse developments constructed on or after January 1, 2027, under which:

- a) A builder may have a building certified by a private licensed architect, engineer, or general contractor who inspects grading, foundations, framing, plumbing, exterior applications, and mandatory health and safety features during construction.
- b) The builder may establish its own postconstruction claim process in lieu of the existing right to repair process.
- c) Inspector approval of any postconstruction repair is deemed to constitute a full and general release, including a waiver of Civil Code Section 1542.
- d) The inspector must meet specified independence criteria (no direct or indirect financial interest in the builder; no more than 10% of the inspector's gross professional revenue from the builder or its affiliates over the prior two years; no employment or officer/director relationship with the builder, developer, or subcontractors within the prior five years).
- e) The Department of Real Estate (DRE), on or before July 1, 2028, must post on its internet website a list of inspectors eligible to perform certified building inspections, based on inspectors' written self-certifications.

FISCAL EFFECT:

- 1) Costs to DRE will depend on the scope of work the bill ultimately requires. The bill, as currently drafted, requires DRE to collect inspector certifications and post a list of eligible inspectors on its website by July 1, 2028, but is ambiguous as to whether DRE must validate the certifications for accuracy. Approximately 260,000 licensees (architects, engineers, and general contractors) would be eligible to serve as inspectors under their existing licenses. Because this licensee population falls outside the scope of the Real Estate Fund, DRE's implementation costs would be borne by the General Fund. DRE estimates \$160,000 to \$200,000 (General Fund), one-time, to develop the IT solution to collect names and create the website. It further estimates \$1.2 million to \$1.3 million in year one and approximately \$859,000 in year two (General Fund), reflecting 8.25 positions and contracting costs to validate certifications, develop IT processes, respond to consumer inquiries, draft regulations, and coordinate with the relevant licensing entities. DRE notes that, depending on classifications, additional administrative support funding beyond the distributed costs already built into program staff may be required. The author should clarify DRE's role to avoid implementation uncertainty and to allow more precise budgeting.
- 2) Unknown workload impact (Trial Court Trust Fund, General Fund), dependent on how the bill's procedural and substantive changes affect construction defect filings.

COMMENTS:

- 1) **Purpose.** According to the author:

In our country, homeownership is the single most reliable pathway to intergenerational wealth and stability. But that pathway is currently only available to the wealthiest Californians. The production of condominiums, which have traditionally provided one of the most affordable homeownership options, has plummeted since the creation

- of our current construction defect liability laws in 2002 (SB 800, Burton). The purpose of this bill is to establish a balanced system that facilitates timely repair of any defects in homeownership housing, and only results in litigation in those instances where the homebuilder fails to repair damage.
- 2) **Background.** The Right to Repair Act, enacted by SB 800 (Burton), Chapter 722, Statutes of 2002, established the existing prelitigation framework governing residential construction defect claims. Under that framework, a homeowner must notify the builder of an alleged violation of statutory performance standards before filing suit, and the builder has the right to inspect and repair. SB 800 superseded the holding in *Aas v. Superior Court* (2000) 24 Cal.4th 627, which had required appreciable, nonspeculative damage before a construction defect claim could proceed. This bill, in relevant part, returns to an *Aas*-style “actual damage” requirement while retaining the SB 800 performance-standards structure. The certified building framework in the bill is optional for the builder and applies only to condominiums and townhouses constructed on or after January 1, 2027. DRE’s role is limited to maintaining a list of inspectors who self-certify their independence; the bill does not authorize DRE to investigate, audit, or discipline inspectors, and does not create a new licensing program.
- 3) **Support and Opposition.** Supporters, led by co-sponsors the California Building Industry Association and Habitat for Humanity, and joined by a broad coalition of local governments, housing advocates, and business organizations, argue that the existing Right to Repair Act has functionally become a litigation-first regime that drives up insurance and construction costs, deters condominium development, and forecloses an important pathway to affordable homeownership. They contend the bill restores the original intent of SB 800 by ensuring defects are repaired rather than litigated, while the optional certified building track provides a workable alternative for new condominium and townhouse projects. Opponents, including consumer advocates, homeowner associations, construction defect law firms, property management companies, and insurance stakeholders, argue that the bill dismantles the carefully balanced SB 800 framework by requiring homeowners to wait for actual physical damage before seeking relief, shifting the cost and risk of defective construction from builders to homeowners, and weakening accountability for unsafe building practices. They further contend that the certified building track allows builders to bypass statutory consumer protections through inspectors whose independence is self-certified rather than independently verified.

Analysis Prepared by: Shiran Zohar / APPR. / (916) 319-2081