

ASSEMBLY THIRD READING
AB 1903 (Wicks and Wilson)
As Amended May 18, 2026
Majority vote

SUMMARY

Revises the right to repair process and litigation procedures for alleged construction defects.

Major Provisions

- 1) Requires the notice to a builder regarding a construction defect that violates the performance standards set in existing law to be signed by the claimant and include the address of the residence, a description of the evidence of a violation, copies of any reasonably available photographs, estimates, or reports relating to any damage to the extent they exist at the time the notice is provided, and the specific location of the evidence within the residence.
- 2) Requires a notice of a construction defect for properties within a homeowner association to be signed by each affected homeowner and include the same information required for an individual notice.
- 3) Provides that a builder may not obtain a release or waiver of any kind in exchange for repairing a construction defect until one year after the conclusion of the repair.
- 4) Provides that in order to make a claim for a violation of the performance standards related to construction defects the claimant must affirmatively demonstrate all of the following, in accordance with the applicable evidentiary standards:
 - a) There is a violation of the applicable standard;
 - b) The violation caused appreciable, nonspeculative, present physical damage to another component part of the building, consistent with *Aas v. Superior Court* (2000), 24 Cal.4th 627;
 - c) The violation is caused by the original construction;
- 5) Clarifies that all claims for the violation of the performance standards are subject to specified affirmative defenses.
- 6) Prohibits an insurer from asserting repairs as a voluntary payment or as a payment made without the insurer's consent, or deny counting the costs associated with those repairs, whether pursuant to a warranty or not, against a deductible or self-insured retention.
- 7) Prohibits a cause of action for construction defect to be filed unless the conditions for filing an action have been met for each claimed violation.
- 8) Prohibits a homeowner from recovering investigative costs in a construction defect action and that *Stearman v. Centex Homes* (2000) 78 California Court of Appeal 4th 611 is abrogated.
- 9) Prohibits the extrapolation of construction defect claims.

- 10) Limits testing of building components in advance of a construction defect claim to conditions that would realistically be expected in the location of the component part of the building.
- 11) Permits a builder to have a newly constructed condominium builder deemed a certified building by undergoing private inspection, repairs, and reinspection during construction in addition to any inspections conducted by the local public agency.
- 12) Provides that a building may obtain certified building status by undergoing private inspection, repairs, and reinspection during construction in addition to any inspections conducted by the local public agency that must examine all of the following:
 - a) Grading;
 - b) Foundations;
 - c) Framing, flashing, windows, and drywall;
 - d) Plumbing
 - e) Exterior applications such as stucco, siding, and roofs; and
 - f) Mandatory health and safety features, including but not limited to seismic safety and fire suppression features.
- 13) Provides that once inspections and repairs, if appropriate, during construction are conducted and approved by the inspector, the inspector must certify that the building is a certified building and such status cannot be challenged.
- 14) Permits the builder of a certified building to establish its own process for handling postconstruction claims.
- 15) Provides that if a claimant makes a claim relating to a certified building and the builder responds by performing repairs that are inspected and approved by the inspector, the claimant is be deemed to have granted a full and general release.
- 16) Prohibits filing an action for construction defect against the builder of a certified building unless specified conditions are met.
- 17) Provides that an inspector hired to certify a building must meet the following criteria:
 - a) Be a private licensed architect, engineer, or general contractor;
 - b) Not have a direct or indirect financial interest in the builder, the developer, or any entity affiliated with the builder or developer.
 - c) Not have received, in the aggregate, more than ten percent of the inspector's gross professional revenue from the builder, the builder's affiliates, or the builder's subcontractors during the two calendar years preceding the first inspection;
 - d) Not be, and not have been within the preceding five years, an employee, agent of the builder, the developer, or any subcontractor that performed work on the project and shall

not have been an officer or director of the builder, the developer, or any subcontractor that performed work on the project.

COMMENTS

In order to address California's ongoing housing crisis, new housing units must be developed at a significantly higher rate than California's construction industry is presently producing. Although a myriad of factors deter housing construction in this state, including local opposition, high labor and material costs, regulatory hurdles, the federal administration's tariff regime, and lending difficulties, the proponents of this measure contend that reforming construction defect law will be a panacea to developing new housing. The proponents of the bill particularly believe that construction defect reform will spur new condominium development. To that end, this bill significantly modifies California's longstanding "right to repair" framework that governs construction defects.

The first reform to the SB 800 framework SB 800 (Burton) Chapter. 722, Statutes of 2022 in this measure aims at modernizing the pre-litigation notice homeowners must transmit to builders. Many of the reforms proposed by this aspect of the bill appear to codify the best practices utilized in the single-family construction defect litigation space. The bill requires homeowners to provide the developer the "address of the residence, a description of the evidence of the damage violation, copies of any reasonably available photographs, estimates, or reports relating to the damage to the extent they exist at the time the notice is provided, and the specific location of the evidence within the residence." Presently it appears that most of this information is already being provided to developers, especially those who utilize websites and smart phone applications for claim intake. Indeed, it does not appear terribly onerous or anti-consumer to ask a homeowner to snap a picture on their smartphone of a potential defect.

Secondly, a major problem in the existing construction defect scheme is that builders are frequently unable to conduct a repair without facing adverse consequences from their insurer. Indeed, nothing in existing law prohibits an insurer from deeming a repair made by a builder to be a "voluntary payment" to the homeowner and not covered by insurance. This bill remedies this massive deterrence to quickly repairing defects by adding Section 942.2 to the Civil Code to read, "an insurer may not assert repairs as a voluntary payment or as a payment made without the insurer's consent, or deny counting the costs associated with those repairs, whether pursuant to a warranty or not, against a deductible or self-insured retention."

This provision is joined in the bill with an equally important proposal to change the waiver of liability provisions currently in the SB 800 framework. The existing law prohibits a builder from obtaining a release of liability after attempting a repair. While the existing law, understandably, was designed to provide homeowners a remedy should a repair fail, it also serves as a massive deterrence to builders to conduct repair work. Under the existing law, no matter how hard a builder tries to fix a problem in good faith they may be sued anyway. The bill permits a developer to obtain a waiver of liability so long as one year has commenced since the successful completion of the repair.

This bill would return California, generally, the state of construction defect law to the early 2000s era. Notably, however, the bill does not return to the prior law's reliance on the developer's ability to meet strict building standards or building material manufacturer's specifications. The bill would essentially create a hybrid of the pre-2002 law. Under this bill, a

claim cannot proceed absent actual damage to a property but the more amorphous performance standards, designed to override strict adherence to building code, would remain.

This bill also prohibits a homeowner from seeking recovery from a builder for any costs associated with inspecting their property for potential defects. The proponents of this measure contend these provisions are designed to eliminate plaintiff's attorneys directing homeowners and homeowner associations to conduct needless inspections to find minor defects at significant expense. Going one step further, this section of the bill also prohibits homeowner associations from extrapolating inspection results from one unit across an entire development.

This bill seeks to implement several of the homeowner association-specific recommendations of the report. First, the bill requires a homeowner association to provide a notice to all homeowners, prior to commencing litigation, warning homeowners of the risks associated with litigation. This measure also limits the liability imposed on officers and directors of a homeowner association for not investigating or pursuing potential construction defect actions.

In addition to the modifications to existing law discussed above, this bill adopts an entirely new legal framework permitting a builder to have the property "certified." The certification process would have the builder hire a third-party inspector to examine aspects of the construction and then certify the building is, presumably, defect-free. The bill provides some criteria as to how the inspector must conduct these inspections. Once a building is certified, a builder is free to ignore the SB 800 process and develop their own procedures for fixing defects, which presumably should not occur if the building is properly certified. Should a defect be identified, despite the certification of the building, the builder would then be free to remedy the defect in any way they see fit. So long as an inspector signs off on that repair work a homeowner would have no legal recourse against the builder should the repair work not remedy the problem. In such circumstances, the homeowner would be financially responsible for remedying the defect on their own or living with a potentially unsafe condition should they not be able to afford the repair work.

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). This is because the current law is skewed to reward unscrupulous litigants to the detriment of existing and future homeowners. 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.

Arguments in Support

This bill is co-sponsored by the California Building Industry Association and Habitat for Humanity. The bill enjoys support from several local governments and the broader business community. In support of the bill the California Building Industry Association states:

CBIA was a supporter of SB 800 (Burton) in 2002. SB 800 is known as California homebuilder's "Right to Repair Act." It was enacted based on consumers' desire to have their homes fixed when they have a problem; they don't want 2-5 years of litigation.

Since that time, it has become anything but a homebuilder's right to repair. Claimants are steered towards litigation at every step of the process. As a result, most claims result in a highly antagonistic process in which, even if the builder makes repairs, the builder is sued because a release for repairs is prohibited.

Once in litigation, the cost of repairs is inflated, frequently meeting or exceeding the cost of building the homes from scratch. It is no longer economically feasible to build this type of housing. As a result, in recent years, homebuilders have ceased building owner-occupied housing (condominiums) – the very kind of housing the Legislature has been incentivizing. This has left California homebuyers without a crucial housing choice, one that is more affordable and better for the environment.

Additionally, the City of Folsom writes:

Across the state, including in Folsom, the current construction defect liability environment has contributed to a near absence of condominium and for-sale multifamily development. This has significantly limited homeownership opportunities for working families and middle-income households.

We recognize that this proposal is being actively debated. It is important that the Legislature hear from cities that are directly responsible for implementing housing policy and meeting state-mandated housing goals.

Arguments in Opposition

This bill is strongly opposed by consumer advocates and homeowner associations. The coalition opposing this measure jointly write:

We respectfully oppose [this bill] because it fundamentally dismantles California's carefully balanced Right to Repair Act (Civil Code Section 895 et seq.), which was designed to ensure that residential construction meets minimum safety and performance standards and that defects are corrected before they cause injury or significant property damage.

For more than two decades, California law has promoted early detection and repair of construction defects in exchange for limited timelines within which claims must be brought. AB 1903 upends this framework by requiring homeowners to wait until physical damage occurs before seeking relief, while preserving short statutes of repose that will bar many claims before defects become visible. This approach undermines California's longstanding commitment to safe housing and shifts the risk of unsafe construction from builders to homeowners.

Housing is often the largest financial investment Californians will ever make. [This bill] shifts the cost of defective construction onto homeowners who cannot afford to pay for builders' mistakes, weakens accountability for unsafe building practices, and reduces incentives to construct housing that complies with basic safety standards.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Costs to The Department of Real Estate (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.

VOTES

ASM JUDICIARY: 12-0-0

YES: Kalra, Macedo, Bauer-Kahan, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ASM APPROPRIATIONS: 11-0-4

YES: Wicks, Aguiar-Curry, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

ABS, ABST OR NV: Hoover, Dixon, Ta, Tangipa

UPDATED

VERSION: May 18, 2026

CONSULTANT: Nicholas Liedtke / JUD. / (916) 319-2334

FN: 0002748