

ASSEMBLY BILL

No. 2784

Introduced by Assembly Member Frazier

February 19, 2016

An act to amend Section 896 of the Civil Code, relating to construction defect litigation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2784, as introduced, Frazier. Construction defect litigation.

Existing law prescribes definitions and requirements for certain civil actions relating to construction defect litigation and limits claims to violations of specified standards.

This bill would make a nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 896 of the Civil Code is amended to read:
2 896. In~~any~~ *an* action seeking recovery of damages arising out
3 of, or related to deficiencies in, the residential construction, design,
4 specifications, surveying, planning, supervision, testing, or
5 observation of construction, a builder, and to the extent set forth
6 in Chapter 4 (commencing with Section 910), a general contractor,
7 subcontractor, material supplier, individual product manufacturer,
8 or design professional, shall, except as specifically set forth in this
9 title, be liable for, and the claimant's claims or causes of action
10 shall be limited to violation of, the following standards, except as
11 specifically set forth in this title. This title applies to original

1 construction intended to be sold as an individual dwelling unit. As
2 to condominium conversions, this title does not apply to or does
3 not supersede any other statutory or common law.

4 (a) With respect to water issues:

5 (1) A door shall not allow unintended water to pass beyond,
6 around, or through the door or its designed or actual moisture
7 barriers, if any.

8 (2) Windows, patio doors, deck doors, and their systems shall
9 not allow water to pass beyond, around, or through the window,
10 patio door, or deck door or its designed or actual moisture barriers,
11 including, without limitation, internal barriers within the systems
12 themselves. For purposes of this paragraph, “systems” include,
13 without limitation, windows, window assemblies, framing,
14 substrate, flashings, and trim, if any.

15 (3) Windows, patio doors, deck doors, and their systems shall
16 not allow excessive condensation to enter the structure and cause
17 damage to another component. For purposes of this paragraph,
18 “systems” include, without limitation, windows, window
19 assemblies, framing, substrate, flashings, and trim, if any.

20 (4) Roofs, roofing systems, chimney caps, and ventilation
21 components shall not allow water to enter the structure or to pass
22 beyond, around, or through the designed or actual moisture barriers,
23 including, without limitation, internal barriers located within the
24 systems themselves. For purposes of this paragraph, “systems”
25 include, without limitation, framing, substrate, and sheathing, if
26 any.

27 (5) Decks, deck systems, balconies, balcony systems, exterior
28 stairs, and stair systems shall not allow water to pass into the
29 adjacent structure. For purposes of this paragraph, “systems”
30 include, without limitation, framing, substrate, flashing, and
31 sheathing, if any.

32 (6) Decks, deck systems, balconies, balcony systems, exterior
33 stairs, and stair systems shall not allow unintended water to pass
34 within the systems themselves and cause damage to the systems.
35 For purposes of this paragraph, “systems” include, without
36 limitation, framing, substrate, flashing, and sheathing, if any.

37 (7) Foundation systems and slabs shall not allow water or vapor
38 to enter into the structure so as to cause damage to another building
39 component.

1 (8) Foundation systems and slabs shall not allow water or vapor
2 to enter into the structure so as to limit the installation of the type
3 of flooring materials typically used for the particular application.

4 (9) Hardscape, including paths and patios, irrigation systems,
5 landscaping systems, and drainage systems, that are installed as
6 part of the original construction, shall not be installed in such a
7 way as to cause water or soil erosion to enter into or come in
8 contact with the structure so as to cause damage to another building
9 component.

10 (10) Stucco, exterior siding, exterior walls, including, without
11 limitation, exterior framing, and other exterior wall finishes and
12 fixtures and the systems of those components and fixtures,
13 including, but not limited to, pot shelves, horizontal surfaces,
14 columns, and plant-ons, shall be installed in such a way so as not
15 to allow unintended water to pass into the structure or to pass
16 beyond, around, or through the designed or actual moisture barriers
17 of the system, including any internal barriers located within the
18 system itself. For purposes of this paragraph, “systems” include,
19 without limitation, framing, substrate, flashings, trim, wall
20 assemblies, and internal wall cavities, if any.

21 (11) Stucco, exterior siding, and exterior walls shall not allow
22 excessive condensation to enter the structure and cause damage
23 to another component. For purposes of this paragraph, “systems”
24 include, without limitation, framing, substrate, flashings, trim,
25 wall assemblies, and internal wall cavities, if any.

26 (12) Retaining and site walls and their associated drainage
27 systems shall not allow unintended water to pass beyond, around,
28 or through its designed or actual moisture barriers including,
29 without limitation, any internal barriers, so as to cause damage.
30 This standard does not apply to those portions of any wall or
31 drainage system that are designed to have water flow beyond,
32 around, or through them.

33 (13) Retaining walls and site walls, and their associated drainage
34 systems, shall only allow water to flow beyond, around, or through
35 the areas designated by design.

36 (14) The lines and components of the plumbing system, sewer
37 system, and utility systems shall not leak.

38 (15) Plumbing lines, sewer lines, and utility lines shall not
39 corrode so as to impede the useful life of the systems.

1 (16) Sewer systems shall be installed in such a way as to allow
2 the designated amount of sewage to flow through the system.

3 (17) Showers, baths, and related waterproofing systems shall
4 not leak water into the interior of walls, flooring systems, or the
5 interior of other components.

6 (18) The waterproofing system behind or under ceramic tile
7 and tile countertops shall not allow water into the interior of walls,
8 flooring systems, or other components so as to cause damage.
9 Ceramic tile systems shall be designed and installed so as to deflect
10 intended water to the waterproofing system.

11 (b) With respect to structural issues:

12 (1) Foundations, load bearing components, and slabs, shall not
13 contain significant cracks or significant vertical displacement.

14 (2) Foundations, load bearing components, and slabs shall not
15 cause the structure, in whole or in part, to be structurally unsafe.

16 (3) Foundations, load bearing components, and slabs, and
17 underlying soils shall be constructed so as to materially comply
18 with the design criteria set by applicable government building
19 codes, regulations, and ordinances for chemical deterioration or
20 corrosion resistance in effect at the time of original construction.

21 (4) A structure shall be constructed so as to materially comply
22 with the design criteria for earthquake and wind load resistance,
23 as set forth in the applicable government building codes,
24 regulations, and ordinances in effect at the time of original
25 construction.

26 (c) With respect to soil issues:

27 (1) Soils and engineered retaining walls shall not cause, in whole
28 or in part, damage to the structure built upon the soil or engineered
29 retaining wall.

30 (2) Soils and engineered retaining walls shall not cause, in whole
31 or in part, the structure to be structurally unsafe.

32 (3) Soils shall not cause, in whole or in part, the land upon which
33 no structure is built to become unusable for the purpose represented
34 at the time of original sale by the builder or for the purpose for
35 which that land is commonly used.

36 (d) With respect to fire protection issues:

37 (1) A structure shall be constructed so as to materially comply
38 with the design criteria of the applicable government building
39 codes, regulations, and ordinances for fire protection of the
40 occupants in effect at the time of the original construction.

1 (2) Fireplaces, chimneys, chimney structures, and chimney
2 termination caps shall be constructed and installed in such a way
3 so as not to cause an unreasonable risk of fire outside the fireplace
4 enclosure or chimney.

5 (3) Electrical and mechanical systems shall be constructed and
6 installed in such a way so as not to cause an unreasonable risk of
7 fire.

8 (e) With respect to plumbing and sewer issues:

9 Plumbing and sewer systems shall be installed to operate properly
10 and shall not materially impair the use of the structure by its
11 inhabitants. However, no action may be brought for a violation of
12 this subdivision more than four years after close of escrow.

13 (f) With respect to electrical system issues:

14 Electrical systems shall operate properly and shall not materially
15 impair the use of the structure by its inhabitants. However, no
16 action shall be brought pursuant to this subdivision more than four
17 years from close of escrow.

18 (g) With respect to issues regarding other areas of construction:

19 (1) Exterior pathways, driveways, hardscape, sidewalls,
20 sidewalks, and patios installed by the original builder shall not
21 contain cracks that display significant vertical displacement or that
22 are excessive. However, no action shall be brought upon a violation
23 of this paragraph more than four years from close of escrow.

24 (2) Stucco, exterior siding, and other exterior wall finishes and
25 fixtures, including, but not limited to, pot shelves, horizontal
26 surfaces, columns, and plant-ons, shall not contain significant
27 cracks or separations.

28 (3) (A) To the extent not otherwise covered by these standards,
29 manufactured products, including, but not limited to, windows,
30 doors, roofs, plumbing products and fixtures, fireplaces, electrical
31 fixtures, HVAC units, countertops, cabinets, paint, and appliances
32 shall be installed so as not to interfere with the products' useful
33 life, if any.

34 (B) For purposes of this paragraph, "useful life" means a
35 representation of how long a product is warranted or represented,
36 through its limited warranty or any written representations, to last
37 by its manufacturer, including recommended or required
38 maintenance. If there is no representation by a manufacturer, a
39 builder shall install manufactured products so as not to interfere
40 with the product's utility.

1 (C) For purposes of this paragraph, “manufactured product”
2 means a product that is completely manufactured offsite.

3 (D) If no useful life representation is made, or if the
4 representation is less than one year, the period shall be no less than
5 one year. If a manufactured product is damaged as a result of a
6 violation of these standards, damage to the product is a recoverable
7 element of damages. This subparagraph does not limit recovery if
8 there has been damage to another building component caused by
9 a manufactured product during the manufactured product’s useful
10 life.

11 (E) This title does not apply in any action seeking recovery
12 solely for a defect in a manufactured product located within or
13 adjacent to a structure.

14 (4) Heating shall be installed so as to be capable of maintaining
15 a room temperature of 70 degrees Fahrenheit at a point three feet
16 above the floor in any living space if the heating was installed
17 pursuant to a building permit application submitted prior to January
18 1, 2008, or capable of maintaining a room temperature of 68
19 degrees Fahrenheit at a point three feet above the floor and two
20 feet from exterior walls in all habitable rooms at the design
21 temperature if the heating was installed pursuant to a building
22 permit application submitted on or before January 1, 2008.

23 (5) Living space air-conditioning, if any, shall be provided in
24 a manner consistent with the size and efficiency design criteria
25 specified in Title 24 of the California Code of Regulations or its
26 successor.

27 (6) Attached structures shall be constructed to comply with
28 interunit noise transmission standards set by the applicable
29 government building codes, ordinances, or regulations in effect at
30 the time of the original construction. If there is no applicable code,
31 ordinance, or regulation, this paragraph does not apply. However,
32 no action shall be brought pursuant to this paragraph more than
33 one year from the original occupancy of the adjacent unit.

34 (7) Irrigation systems and drainage shall operate properly so as
35 not to damage landscaping or other external improvements.
36 However, no action shall be brought pursuant to this paragraph
37 more than one year from close of escrow.

38 (8) Untreated wood posts shall not be installed in contact with
39 soil so as to cause unreasonable decay to the wood based upon the
40 finish grade at the time of original construction. However, no action

1 shall be brought pursuant to this paragraph more than two years
2 from close of escrow.

3 (9) Untreated steel fences and adjacent components shall be
4 installed so as to prevent unreasonable corrosion. However, no
5 action shall be brought pursuant to this paragraph more than four
6 years from close of escrow.

7 (10) Paint and stains shall be applied in such a manner so as not
8 to cause deterioration of the building surfaces for the length of
9 time specified by the paint or stain manufacturers' representations,
10 if any. However, no action shall be brought pursuant to this
11 paragraph more than five years from close of escrow.

12 (11) Roofing materials shall be installed so as to avoid materials
13 falling from the roof.

14 (12) The landscaping systems shall be installed in such a manner
15 so as to survive for not less than one year. However, no action
16 shall be brought pursuant to this paragraph more than two years
17 from close of escrow.

18 (13) Ceramic tile and tile backing shall be installed in such a
19 manner that the tile does not detach.

20 (14) Dryer ducts shall be installed and terminated pursuant to
21 manufacturer installation requirements. However, no action shall
22 be brought pursuant to this paragraph more than two years from
23 close of escrow.

24 (15) Structures shall be constructed in such a manner so as not
25 to impair the occupants' safety because they contain public health
26 hazards as determined by a duly authorized public health official,
27 health agency, or governmental entity having jurisdiction. This
28 paragraph does not limit recovery for any damages caused by a
29 violation of any other paragraph of this section on the grounds that
30 the damages do not constitute a health hazard.