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NEVADA TRIAL LAWYERS ASSOCIATION

AB373

Homeowners Would Lose Rights Before They Would Know Something is Wrong

AB 373 would impose upon homeowners wholly unreasonable and illogical time limits for filing claims. The bill would shorten the time limits for bringing any claim of a construction defect to as little as one year after the close of escrow. The time limits vary from one to five years from close of escrow for various types of defects. The different time limits per different categories of defects appears to be based on the assumption that the shortest time limits would apply to defects that would presumably become apparent within one year. A few examples may suffice to demonstrate the absurdity of these time limits.

The one year period would apply to defects in windows. One of the more common problems in residential construction is the absence of window flashing or incorrectly installed window flashing. When these conditions exist, water does not stay on the outside of the building envelope. Instead, it penetrates into the perimeter wall cavity. Over time, the wet conditions inside the wall cavity become a garden of mold and fungus. The damage does not become apparent to anyone inside the home until the mold actually grows through the sheet rock wall or the dry rot causes a failure of the structural member. With the minimal rainfall that prevails in Nevada, it can take years before a homeowner is aware of such hidden damage occurring.

A similar condition exists with roofs. For example, if a roof leaks at the location where a vent pipe or other penetration exists, the water will leak into the attic space and be soaked up by insulation, sheet rock and other building materials, facilitating the growth of mold and other fungi. The homeowner may not become aware of these conditions for a very long time.

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ASSEMBLY JUDICIARY

DATE: 4/8/03 ROOM: 3138 EXHIBIT D

SUBMITTED BY: B. Maddy



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AB 373 would bar claims related to fireplaces one year after close of escrow. Fireplace defects can be completely hidden from the homeowner and yet can present extreme danger. For example a defective zero clearance fireplace installed directly against wood framing can cause repeated drying and weakening of the wood over years of use, eventually causing ignition of the seared wood.

AB373 would bar claims for defects in a residence relating to drainage or irrigation systems one year after close of escrow. What few people realize is that drainage and irrigation defects in combination with expansive soil can cause terrible damage to homes. The damage may not even begin to show for 3-5 years after construction of the home because water percolates very slowly through clay. It may take years for the water to reach the critically expansive soil 4-6 feet beneath the home.

There is no justification for barring homeowner construction defect claims before the homeowner may even know there is a defect.

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