

**First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO
UNOFFICIAL PREAMENDED VERSION**

LLS NO. 07-0368.01 Bart Miller

HOUSE BILL 07-1338

HOUSE SPONSORSHIP

Pommer, Carroll M., Judd, Levy, Madden, Merrifield, Benefield, Frangas, and McGihon

SENATE SPONSORSHIP

Veiga, and Tochtrop

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ELIMINATION OF CERTAIN RESTRICTIONS ON LEGAL**
102 **RIGHTS AVAILABLE TO RESIDENTIAL PROPERTY OWNERS WITH**
103 **RESPECT TO CONSTRUCTION DEFECT ACTIONS, AND, IN**
104 **CONNECTION THEREWITH, ENACTING THE "HOMEOWNER**
105 **PROTECTION ACT OF 2007".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Makes waivers of certain basic statutory rights and remedies by residential property owners in their transactions with construction professionals void as against public policy.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** This act shall be known and may be
3 cited as the "Homeowner Protection Act of 2007".

4 **SECTION 2.** 13-20-806, Colorado Revised Statutes, is amended
5 BY THE ADDITION OF A NEW SUBSECTION to read:

6 **13-20-806. Limitation of damages.** (7) (a) IN ORDER TO
7 PRESERVE COLORADO RESIDENTIAL PROPERTY OWNERS' LEGAL RIGHTS
8 AND REMEDIES, IN ANY CIVIL ACTION OR ARBITRATION PROCEEDING
9 DESCRIBED IN SECTION 13-20-802.5 (1), ANY EXPRESS [REDACTED] WAIVER OF, OR
10 LIMITATION ON, THE LEGAL RIGHTS, REMEDIES, OR DAMAGES PROVIDED BY
11 THE "CONSTRUCTION DEFECT ACTION REFORM ACT", THIS PART 8, OR
12 PROVIDED BY THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1
13 OF TITLE 6, C.R.S., AS DESCRIBED IN THIS SECTION, OR ON THE ABILITY TO
14 ENFORCE SUCH LEGAL RIGHTS, REMEDIES, OR DAMAGES WITHIN THE TIME
15 PROVIDED BY APPLICABLE STATUTES OF LIMITATION OR REPOSE, ARE VOID
16 AS AGAINST PUBLIC POLICY.

17 (b) A WAIVER, LIMITATION, OR RELEASE CONTAINED IN A WRITTEN
18 SETTLEMENT OF CLAIMS, AND ANY RECORDED NOTICE OF SUCH
19 SETTLEMENT, BETWEEN A RESIDENTIAL PROPERTY OWNER AND A
20 CONSTRUCTION PROFESSIONAL AFTER SUCH A CLAIM HAS ACCRUED SHALL
21 NOT BE RENDERED VOID BY THIS SUBSECTION (7).

22 (c) THIS SUBSECTION (7) APPLIES ONLY TO THE LEGAL RIGHTS,
23 REMEDIES, OR DAMAGES OF CLAIMANTS ASSERTING CLAIMS ARISING OUT
24 OF RESIDENTIAL PROPERTY AND SHALL NOT APPLY TO SALES OR
25 DONATIONS OF PROPERTY OR SERVICES BY A BONA FIDE CHARITABLE
26 ORGANIZATION THAT IS IN COMPLIANCE WITH THE REGISTRATION AND

1 REPORTING REQUIREMENTS OF ARTICLE 16 OF TITLE 6, C.R.S.

2 (d) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (7) TO
3 THE CONTRARY, THIS SUBSECTION (7) SHALL APPLY ONLY TO ACTIONS
4 THAT ARE GOVERNED BY THE PROVISIONS OF THIS PART 8, ALSO KNOWN AS
5 THE "CONSTRUCTION DEFECT ACTION REFORM ACT", AND SHALL NOT BE
6 DEEMED TO ALTER OR AMEND THE LIMITATIONS ON DAMAGES CONTAINED
7 IN THIS PART 8, INCLUDING THE LIMITATIONS ON TREBLE DAMAGES AND
8 ATTORNEY FEES SET FORTH IN THIS SECTION.

9 (e) NOTHING CONTAINED IN THIS SECTION SHALL BE DEEMED TO
10 RENDER VOID ANY REQUIREMENT TO PARTICIPATE IN MEDIATION PRIOR TO
11 FILING A SUIT OR ARBITRATION PROCEEDING.

12 SECTION 3. 13-20-807, Colorado Revised Statutes, is amended
13 to read:

14 **13-20-807. Express warranty - not affected.** The provisions of
15 this part 8 are not intended to abrogate or limit the provisions of any
16 express warranty OR THE OBLIGATIONS OF THE PROVIDER OF SUCH
17 WARRANTY. The provisions of this part 8 shall apply to those
18 circumstances where an action is filed asserting one or more claims for
19 relief including a claim for breach of warranty; EXCEPT THAT IN ANY SUCH
20 ACTION, SECTION 13-20-806 (7) SHALL NOT APPLY TO BREACH OF EXPRESS
21 WARRANTY CLAIMS EXCEPT TO THE EXTENT THAT PROVISIONS OF THE
22 EXPRESS WARRANTY PURPORT TO WAIVE OR LIMIT CLAIMS FOR RELIEF
23 OTHER THAN THE BREACH OF EXPRESS WARRANTY CLAIM. The provisions
24 of this part 8 shall not be deemed to require a claimant who is the
25 beneficiary of an express warranty to comply with the notice provisions
26 of section 13-20-803.5 to request ordinary warranty service in accordance
27 with the terms of such warranty. A claimant who requires warranty

1 service shall comply with the provisions of such warranty.

2 **SECTION 4. Effective date - applicability.** This act shall take
3 effect upon passage and shall apply to actions filed on or after said date.

4 **SECTION 5. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.