

# UNDER THE DOME

WITH THE NCLA

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## NCLA BOARD WEIGHS IN ON CONSTRUCTION DEFECTS AND AFFORDABLE HOUSING

On the heels of the introduction of a proposal aimed at making the construction of affordable housing more viable, the NCLA Board of Directors took a position last week to support the effort and to make the issue among its priority issues. Senate Bill 15-177 proposes to make changes to current law regarding construction defects in hopes of easing legal burdens that proponents argue have hindered the construction of condominiums and other affordable housing units due to concerns of liability.

The introduction of Senate Bill 15-177 was long-awaited as a similar effort was thwarted by then-Senate President Morgan Carroll (D-Aurora) when Democrats held the majority in the Senate. SB 177 is sponsored by a bi-partisan group of legislators including House Minority Leader Brian DelGrosso (R-Loveland).

Despite the bi-partisan support of the bill, it has a significant hurdle to overcome in the House as House Speaker Dickie Lee Hullinghorst is a vocal critic and opponent of any reform effort. DelGrosso has expressed optimism that Hullinghorst will give the legislation a fair opportunity to be considered in the House despite her opposition. The committee assignment of the bill in the House, a decision of the Speaker, will be the telling indicator about whether the bill has a chance of passage in the House.

The issue of construction defect reform has historically been a clash between builders and trial lawyers. The issue, however, has garnered the attention and concern of affordable housing proponents, municipal leaders and economic developers who have rallied to develop and support SB 177. They have framed the issue as a struggle to re-start a largely non-existent condominium market in which just 4 percent of new housing stock in Colorado is multi-family homes for sale.

SB 177 proposes to require a majority of owners in a condominium homeowners association to vote to proceed with a class-action defects lawsuit. Under current law, only a majority of an HOA's board members must vote to proceed. SB 177 would also require that an HOA can not unilaterally remove any provision requiring them to go through mediation or arbitration before filing a lawsuit while also limiting builders from casting proxy votes in any lawsuit election for condos in a development they still own.

The bill will start its legislative path in the Senate where it is expected to pass easily under the sponsorship of Senate Majority Leader Mark Scheffel (R-Douglas County) and Democrat Senator Jessie Ulibarri (D-Commerce City). A hearing has not yet been set.

