

ARIZONA STATE LEGISLATURE

CONSTRUCTION LIABILITY APPORTIONMENT STUDY COMMITTEE

Minutes of the Meeting
December 19, 2018
9:00 a.m., Senate Hearing Room 1

Members Present:

Senator Karen Fann, Co-Chair
Senator Rick Gray

Representative Thomas R. Shope, Co-Chair
Representative Jill Norgaard

Members Excused:

Senator Lupe Contreras

Representative Diego Espinoza

Staff:

Grant Hanna, Senate Staff
Molly Graver, Senate Research Staff
Jon Rudolph, House Research Staff

Co-Chair Fann called the meeting to order at 9:06 a.m. and attendance was taken.

APPROVAL OF MINUTES

Senator Fann requested a motion for the approval of the minutes, Representative Shope stated "so moved", Representative Norgaard seconded the motion. The motion carried by voice vote.

Overview of Study Committee Findings

Grant Hanna, Senate Staff, explained a PowerPoint presentation regarding the recommendations that have been agreed upon by the stakeholders (Attachment A).

Public Testimony

Kevin DeMenna, DeMenna Public Affairs, Arizonans for Fair Contracting, testified in support of the recommendations as explained by staff.

Spencer Kamps, Homebuilders Association of Central Arizona, testified in support of the recommendations and spoke regarding topics still unresolved. Mr. Kamps answered questions posed by the Committee.

Comments and Committee Recommendations

Representative Shope moved that the Study Committee recommend to the full Legislature the adoption of legislation that does the following:

1. Amends the Purchaser Dwelling Act to require subcontractor notice at the onset of a claim for alleged construction defects.
2. Requires a subcontractor's insurer to treat a dwelling action notice as a notice of a claim subject to the terms of the subcontractor's insurance policy.
3. Requires homeowner notice to provide detail sufficient to identify alleged construction defects, including nature, location and impairment to the home.
4. Extends a seller's right to repair to subcontractors and allows a performing subcontractor to repair or replace their own work.
5. Establishes proportional liability for homebuilders and residential subcontractors by limiting the scope of permissible indemnity agreements.
6. Bifurcates dwelling actions to dismiss claims without merit, release parties without fault and assign any remaining financial responsibility based on relative degrees of fault.
7. Increases resolution of homeowner complaints by the Registrar of Contractors in lieu of construction defect litigation.
8. Extends the Construction Liability Apportionment Study Committee for one additional year.

Senator Gray seconded the motion. The motion CARRIED by voice vote.

Attached are the forms noting the individuals who submitted a Speaker slip on the agenda items (Attachment B).

There being no further business, the meeting was adjourned at 9:30 a.m.

Respectfully submitted,

Shelley Ponce
Committee Secretary

(Audio recordings and attachments are on file in the Secretary of the Senate's Office/Resource Center, Room 115. Audio archives are available at <http://www.azleg.gov>)