



ATTAINABLE AND
AFFORDABLE
HOMEOWNERSHIP

FAQs: Construction Liability Litigation Reform ***Senator Zenzinger and Representative Bird***

Why are you focused on construction liability litigation?

While construction liability litigation is a key element contributing to Colorado's affordable housing crisis, this is a complex issue and there is no silver bullet. The current Colorado statute regarding construction liability can result in construction professionals who make modest mistakes in housing construction finding themselves in costly and time-intensive lawsuits. This raises contractors' liability insurance premiums over the long term, which adds to the costs of development, makes housing more expensive and reduces our housing options, especially condominiums.

How is this bill going to help with Colorado's housing crisis?

Increasing the supply, quality, and accessibility of affordable housing units will expand and sustain homeownership, and Colorado's deficit of affordable and attainable housing is most acute in the availability of condominiums, primarily because of construction liability lawsuits.

The goal of this bill is to reduce insurance costs by decreasing the magnitude and frequency of claims, provide other means to resolve disputes faster for homeowners, and ultimately help reduce building costs to produce attainably priced homes and create more opportunities to build wealth for Coloradans through homeownership.

Why is your focus on condominiums?

Condominiums are critically important because they help close the affordability gap, add a needed element to the diverse mix of housing options we can offer Coloradans, are arguably the most affordable owner-occupied housing option, and most importantly, they are a key path to first-time homeownership.

Why aren't condominiums being built in Colorado now?

In addition to the high frequency and cost of construction liability litigation in this state, many other factors contribute to the lack of condominium construction – lower insurance “hard costs” for rental apartment construction, permitting issues, affordable housing requirements, and a shortage of land zoned for transit-oriented development, or higher density housing located in and near transit corridors.

How is this bill different from the one you worked to pass in 2017?

While the main provisions in our [proposed 2017 legislation](#) are still valid and important, over six years of housing data demonstrates they did not go far enough to adequately address our housing affordability crisis with policy reform that protects the rights of homeowners, while also encouraging more condominium construction.

How are Colorado's lower-income earners and workforce affected by this issue?

Condominiums can offer an affordable owner-occupied housing alternative at different price points, providing our essential workforce positions (i.e., teachers, nurses, firefighters, first responders, police and skilled laborers, etc.) with a path to homeownership. But Colorado is quickly becoming a place where low- and middle-income earners cannot afford to own a home, weakening the workforce and threatening to undermine the state's economy. Many factors contribute to this issue nationally and in Colorado, including:

Housing Shortage

- The U.S. is short about 3.8 million housing units relative to demand, making one of the toughest real estate markets in history even more difficult for middle- and low-wage earners trying to rent and buy homes.
- As of 2022, Colorado has an unmet housing need of between 65,000 and 100,000 units.
- According to the Colorado Housing Finance Authority, Colorado has a housing unit shortage of over 225,000 units for current residents (DMCC/Metro Denver EDC, *Toward A More Competitive Colorado 2024*).

Workforce Shortage

- The availability of workers in Colorado has been constrained, with more than two open jobs for each unemployed worker in 2022, more than double the 2021 rate (DMCC/Metro Denver EDC, *Toward A More Competitive Colorado 2024*).
- Our latest estimates show we need 50,000 skilled trades employees by 2030.

High Costs of Homeownership

- According to a [recent report from Redfin](#), the median home-sale price in Denver is nearly \$580,000, which means that to comfortably afford a home you would need an annual income of at least \$158,187.
- At the same time that fewer mid-priced condominiums are being built, they are also becoming increasingly more expensive to construct, and that cost is passed on to the consumer in the form of higher sales prices.
 - In 2005, the majority of new and existing condominium units were priced under \$300,000 because of an adequate supply. By 2023, only two percent of new condominiums built were priced under \$300,000. And, due to the severe lack of supply, currently only a third of resale condominiums are available for a price that is under \$300,000. In October 2023, the mid-point price for metro Denver condominiums was \$418,000.
- In the skilled trades industry, this has become a workforce housing issue. As our baby boomer population continues to age out of the workforce, many skilled trades need to hire younger apprentices to fill that gap, but with apprentices beginning their careers making an average of \$40,000 per year, homeownership is out of reach.

How does this offer more housing affordability options to different populations/communities?

Condominiums offer an affordable housing alternative at different price points for diverse populations of people. For example:

- Individuals with disabilities need access to smaller, more affordable housing that is closer to where they work and public transit.
- They offer the more mature population (retirees, empty nesters) the opportunity to downsize and live near their younger family members without having to maintain a house too large and expensive for their needs.
- It is also imperative for the health of Colorado's economy to attract and retain our highly-educated and talented young professionals. For this population, condos tend to be less expensive, giving first-time property owners a chance to build equity and a path to homeownership.

How do we know this bill does not go too far and could result in owners losing rights?

The goal of this bill is to reduce frivolous lawsuits to bring insurance back into the market, while not taking away any protections from consumers who have a legitimate claim. The bill provides homeowners with additional consumer protection measures by:

- Providing alternative means to resolve disputes faster, outside of a burdensome and time-consuming litigation environment;

- Ensuring that they have the right to pursue timely and effective remedies for construction claims, and that such remedies are fair to the homebuyer but do not prevent the construction of attainable multifamily for-sale housing options; and
- Giving them greater transparency about construction litigation related to their property.

How does this bill bring insurers back to the Colorado market?

In Colorado, the high costs and frequency of construction liability litigation related to condominium development has driven insurance companies to raise insurance rates for developers. In recent years, insurance costs for condominiums surged to 5.5% of a project's hard costs, which was more than 233% higher than multifamily rental home projects. Additionally, insurance providers have reported that insurance rates for condominium development in Colorado are four times higher than the rates they see in California.

Offering consumers alternative options to resolve defect issues outside of litigation will reduce the magnitude and frequency of claims, which should help to lessen insurance costs. Consequently, insurers should be more incentivized to return to the Colorado market.

How are smaller, mom-and-pop businesses in the construction industry affected by litigation?

Businesses in the construction industry are mostly small businesses. According to the U.S. Chamber of Commerce Institute for Legal Reform's [Tort Costs for Small Businesses](#), certain industries are inherently riskier and may have more exposure to liability claims, and the price of tort liability is highest for small businesses in each industry.

For the construction industry, the price of tort liability for small businesses is \$30.77 per thousand dollars of revenue, with only the transportation, telecom and utilities industries incurring a greater cost of risk. In contrast, the price of tort liability is only \$8.82 or less for the manufacturing, retail trade, and wholesale trade industries.

How does this bill contribute to state goals and benefit local communities?

Governor Polis has called for the state to leverage policies to increase density in certain areas, and this bill does that because condominiums are a higher-density development that use less land and natural resources, creating a positive impact on the environment.

With improved neighborhood connectivity to transit corridors, condominiums provide an opportunity for more Coloradans to live in communities closer to where they work, reducing commute times and GHG emissions from individual cars.

According to the Urban Land Institute's [Higher-Density Development-Myth and Fact](#), higher-density development – like condominiums – provides local communities with the following benefits:

- It offers the best solution to managing growth, improving air and water quality, and protecting open space.
- It places new development into already urbanized areas that are equipped with basic infrastructure like utility lines, police and fire protection, schools, and shops, eliminating the financial and environmental costs of stretching those services farther and farther out from the core community.
- It reduces driving and smog and preserves the natural areas that are assets of the community: watersheds, wetlands, working farms, open space, and wildlife corridors.
- It redirects investments to towns and cities and revitalizes existing communities by creating more walkable neighborhoods with access to public transit, hiking and biking trails, which is vital to preserving a healthy environment and fostering healthy lifestyles.