



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2005 Senate Bill 448**

**Senate Substitute Amendment 3**

*Memo published:* February 24, 2006

*Contact:* Dan Schmidt, Senior Analyst (267-7251)

*Senate Bill 448* establishes a process for resolving construction defect disputes between contractors and homeowners. Contractors must notify consumers of the dispute resolution process at the time of contracting. The process generally requires that consumers notify contractors of alleged defects in writing and contractors to respond in writing. The bill establishes time limits for notification and response depending upon the specific situation. Generally, a homeowner may not sue a contractor for an alleged construction defect, under this bill, unless the dispute resolution process is followed.

The bill also establishes several liability protections for contractors under the dispute process. These include:

- A limit on homeowner damages to fair market value of the settlement offer, or actual cost of repairs, if the homeowner rejects a reasonable settlement offer or does not permit the contractor to repair the defect.
- A limit on contractor liability for damages caused by a defect if the damage is caused by normal shrinkage or settlement of the construction, if the contractor relied on written information from an agency, if the defect was known by or disclosed to the homeowner prior to purchase, the dwelling is purchased “as is” or the contractor is not permitted to perform warranty service work.

The bill establishes additional procedures that condominium and other homeowners associations must follow prior to bringing an action for a construction defect. These procedures include receiving approval from each unit’s owner who is affected by the action, the majority of unit owners voted for the action, and the association’s board of directors negotiated with the contractor in good faith to solve the defect.

*Senate Substitute Amendment 3* eliminates the bill’s contractor liability protections and the additional procedures required for condominium or homeowner’s associations. The amendment also generally reorganizes and clarifies the original language of the bill.

**Legislative History**

Senate Substitute Amendment 3 was adopted and Senate Bill 448 was recommended for passage as amended by the Senate Committee on Housing and Financial Institutions by a vote of Ayes, 7; Noes, 0, on February 21, 2006.

DWS:wu:ksm