

DESIGN PROFESSIONALS' PRACTICE UPDATE

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California Law: New Residential Construction Defects Law

Senate Bill 800 (effective January 1, 2003); Civil Code §§43.99, 895-945.5

By Richard J. Sciaroni and Douglas J. Melton

This is the first in a series of Updates about Senate Bill 800 (SB800) and its potential impact on the design and construction industry. The following is a brief overview of the law and its origins. Succeeding Updates will discuss SB800 in greater detail.

The California Legislature enacted SB800, effective January 1, 2003, changing the law governing new residential construction. Drafted in response to **Aas v. Superior Court** (2000) 24 Cal.4th 627, SB800 (1) expands the damages homeowners may recover for construction defects; (2) overhauls the statute of limitations and repose for new residential construction; (3) establishes residential building standards; (4) prescribes mandatory pre-litigation mediation; and (5) provides limited immunity for entities providing quality review of plans and construction.

What SB800 Does

- Applies to all residential construction (single-family homes, attached dwellings, and common-interest developments) originally sold on or after January 1, 2003.
- Enacts new residential building standards.
- Imposes strict liability on residential builders for violation of new building standards.

What SB800 Does Not Do

- Does not apply to commercial or institutional construction.
- Standards for commercial or institutional construction remain unchanged.
- Does not alter liability of design professionals; standard of care criteria remains intact; Certificate of Merit for negligence action against design professional required.

What SB800 Does

- Expands scope of recoverable damages for construction defects.
- Enacts general 10 year statute of repose for residential construction defect claims, with shorter periods for specific components.
- Eliminates patent and latent defect distinction for residential construction.
- Homeowner required to initiate mandatory pre-litigation mediation against residential builder and builders have the opportunity to try to fix the problem.
- Restricts affirmative defenses available to residential builders.
- Confers limited immunity on “qualified” persons or entities who perform independent review of plans for code compliance or construction for design compliance.

What SB800 Does Not Do

- Recovery for commercial or institutional construction defects remains limited to actual **physical** damage.
- Statutes of limitation and repose remain intact for commercial or institutional construction.
- Patent and latent defect distinction remains for commercial and institutional construction.
- Homeowners/Builders not required to bring design professionals into pre-litigation mediation.
- No limitation on design professional affirmative defenses.
- Does not protect against indemnity claims by builders who are sued for construction defects.

In succeeding weeks, Long & Levit will issue a series of Updates discussing SB800 in detail and its impact on design professionals.

This publication is intended for general information purposes only and does not constitute nor is it intended to constitute legal advice. The reader must consult with legal counsel to determine how laws or decisions discussed here apply to the reader's specific circumstances.