

Good Afternoon, Chair Marsh, Vice-Chair Andersen, Vice-Chair Breese-Iverson, and members of the Committee,

My name is Justin Barnhart, and I serve as the Director of Assessments and Rehabilitation at Certa Building Solutions and I opposition to HB 3746.

Certa Building Solutions is a Building Envelope Consulting firm based in Portland, Oregon, with additional offices in Orlando, Florida, and Seattle, Washington. We currently manage projects across 17 states. Our focus is on the design and construction of durable, well-functioning, and cost-effective building envelope systems. We are regularly engaged by developers and design professionals to review plans, provide design services, and conduct field inspections for new construction projects.

The department I manage specializes in the evaluation of existing buildings, particularly their siding and roofing systems. We assess their condition, identify performance issues, and advise clients on service life expectations and potential repair solutions. Our clients include Home and Condominium Owners Associations, multi-family apartment owners, municipalities, and commercial building owners. We are often appointed as the architect or engineer of record to design and oversee repair projects. My team and the construction teams we partner with assume full liability for repairs, and, for context, none of the projects managed by my department have ever been involved in construction defect litigation.

With nearly 20 years of experience in envelope consulting, I have evaluated hundreds of developments, including condominiums, townhomes, single-family homes, and commercial buildings. However, the majority of my clients are condominium and townhome associations, who face ongoing issues with progressive water intrusion. I spend much of my time educating volunteer boards and homeowners about the long-term effects of water intrusion. Once they are able to understand the gravity of the situation, I am often asked, "Why didn't the city inspector catch this?" or "Why didn't my home inspector identify this issue?"

The truth is that building officials do not inspect or have jurisdiction over the construction of the building envelope, and home inspectors cannot easily detect underlying performance issues through visual inspection—especially in new buildings. Water ingress is a slow, progressive process that can take years to manifest as structural damage.

To illustrate this point, I have provided three side-by-side photos (**SLIDE 1-3**) of two local buildings completed in 2020 and evaluated in 2023. Both were constructed under the same building code, with similar occupancy types and building materials. The only difference is that one was developed for sale as condominiums, and the other was intended as a long-term rental. Three years after construction, one building is experiencing significant water ingress, while the other is performing as intended.

I present these photos to emphasize two key points:

1. **We know how to design and construct buildings that do not leak.** My firm, along with other similar professionals, successfully do this every day. Developers, housing authorities, hospitals, municipalities, and schools districts engage us because they understand the long-term value of durable, well-constructed buildings. Institutional owners recognize that spending an additional 3% to 5% up front can prevent millions of dollars in repairs within the first 20 years of service.
2. **Water damage is latent.** The only reason we investigated the buildings in question was due to issues unrelated to water ingress. Neither of these clients suspected their buildings were leaking, nor were there visible indications of such problems. For institutional owners, this provides reassurance that their buildings are performing as intended. Unfortunately, condominium owners face the prospect of premature failure of their cladding systems, which could have been avoided through proper design and construction.

The timing of addressing failing cladding systems is crucial. It is a common misconception that active water ingress results in visible leaks inside the

building. In my experience, most defective cladding systems do not manifest as interior leaks, allowing the problem to worsen over years or even decades before becoming apparent. This is why a 10-year statute of repose is essential. Many of my clients' issues stem not from end-of-service life or material failures but from developers constructing buildings to minimum standards or using unreliable products, such as "drainable" house wraps, "self-flashing windows," or "magic" paints.

Allow me to share three case studies that highlight the importance of the statute of repose.

- **Case Study 1 (SLIDE 4-10):** A condominium constructed in 2007, where we were engaged in 2014 to evaluate cladding issues after roof leaks led to a claim against the developer. The building's challenging location caused significant delays in evaluating the water intrusion, ultimately leading to extensive structural damage. Had the statute of repose been reduced to six years, the association would have been forced to cover the \$46,228-per-unit repair cost out of pocket.
- **Case Study 2 (SLIDE 11-16):** A condominium complex built between 2001 and 2004 as affordable housing. In 2015, the association discovered waterproofing failures on the walkways. However, they were unaware that their vertical walls were also defective, experiencing both water intrusion and air leakage condensation. After 15 years without visible signs of water intrusion, the necessary repairs cost the homeowners an average of \$33,572 each. Had they been able to take action a year earlier, they would have had some protection under the statute of repose.
- **Case Study 3 (SLIDE 17-24):** A condominium association that missed their opportunity to pursue litigation and instead exhausted their financial resources on temporary repairs. When I became involved, the tension was palpable, and the building's issues were extensive. One owner, who had never seen a leak in her unit, was shocked when we

uncovered severe structural damage during repairs. The situation had festered for years without visible signs of damage.

The key takeaway from these cases is that reducing the statute of repose only shifts the financial burden of substandard construction practices from developers and contractors to homeowners—many of whom do not have the expertise to understand or address the complexities of building construction.

In fact, many individuals gravitate toward multi-family housing because they want to avoid managing their own building maintenance, trusting that their homeowners' associations will handle the repairs. By reducing the statute of repose, we are effectively penalizing homeowners who are not equipped to manage these complex issues.

Finally, I would like to note that Florida recently reduced its statute of repose for construction defects from 10 years to 7 years. We are already seeing the negative consequences of this decision firsthand, as homeowners now face repair costs of \$50,000 to \$100,000, while developers continue to profit from subpar construction. The impact on homeowners is devastating, and this law does not reduce housing costs; it only exacerbates the financial burden on those least equipped to handle it.

Oregonians deserve better consumer protection, not worse.

Thank you for your time and consideration.

Justin Barnhart
Director of Assessment and Rehabilitation
Certa Building Solutions

Condominium



Apartment



Condominium



Apartment



Condominium



Apartment



Case Study 1



Case Study 1



Case Study 1



Case Study 1



Case Study 1



Case Study 1



Case Study 1



Case Study 2



Case Study 2



Case Study 2



Case Study 2



Case Study 2



Case Study 2



Case Study 3



Case Study 3



Case Study 3



Case Study 3



Case Study 3



Case Study 3



Case Study 3



Case Study 3

