

WASHINGTON CONSTRUCTION INDUSTRY COUNCIL

LEGISLATIVE POSITION

Date: January 29, 2008

WCIC Opposes Provisions in Residential Construction Liability Legislation – SB 6385

This year a proposal that would **adversely affect** the **housing and construction industry's contribution to the state's economy** has taken the form of SB 6385 that **allows home buyers and subsequent purchasers to sue anyone "involved" in residential construction for negligence**. This legislation is a sweeping departure from current law, exposing home builders to frivolous lawsuits which will significantly raise insurance prices for contractor liability insurance. SB 6385 is potentially more damaging than last session's homeowner's warranty bill. This bill not only targets general contractors, but would put all those "involved" in home construction at greater risk. **Architects, building designers, suppliers and all subcontractors who worked on the home** would be at risk of being sued for negligence claims. **Even homeowners could be sued by subsequent purchasers.**

WCIC Opposes SB 6385 for the following reasons:

The prime sponsor continues to say that builders can't be sued in Washington State. This is untrue. **Homebuyers have multiple recourses to sue a builder:**

- Sue for breach of contract (failure to perform in a workmanlike manner)
- Sue under the Consumer Protection Act
- Sue under product liability
- Sue under the implied warranty of habitability

- Sue under any available third party warranties

This bill will traumatize the residential liability insurance market for builders and will dramatically **increase the cost of all new housing**. The bill impacts all builders - both good and bad.

Non-profit, low-income and for-profit builders will be equally impacted.

During the last insurance crisis, most insurance carriers stopped writing policies and refused to renew existing builder policies as they expired. For those lucky enough to find insurance, the rates went through the roof.

If contractors are unable to obtain liability insurance, as required by law to be a registered contractor, many will simply go underground and operate as illegal and uninsured contractors. This is certainly **not in the public's best interest**.

Making drastic changes under the guise of protecting consumers will exacerbate the number of frivolous lawsuits, dramatically driving up the cost of housing.

Even homeowners could be sued by subsequent purchasers. A design or cost cutting element negotiated and acceptable to both the contractor and original owner may later be considered negligence by a future purchaser of the home.

Please vote "no" on SB 6385.

Please see next page . . .

Thursday, November 15, 2007 - Page updated at 05:31 PM

Slowing housing market drives state income down

By CURT WOODWARD

The Associated Press

OLYMPIA — A cooling housing market has helped cut about \$132 million from the state's expected income, dropping the government's total surplus to less than \$1.4 billion as Gov. Christine Gregoire and lawmakers prepare to update the state budget.

ChangMook Sohn, the state's chief economist, said the income drop was the first significant setback in quarterly revenue projections in about four years. Still, Sohn called the lower income numbers "clearly a very minor fine-tuning, rather than a major change."

Strong real estate and construction markets have pushed the state's economic fortunes in recent years, and the state has been relatively insulated from national housing-market weaknesses that have stung mortgage lenders.

With Thursday's lower forecast, that market softening seems to have finally applied some brakes to Washington's economy — an event that state budget leaders have been expecting for some time.

"I think this is the beginning of a weakening trend that we have not seen, when the rest of the country has seen it in the last few years," Sohn said.

The new projection, approved unanimously Thursday by the state Economic and Revenue Forecast Council, trims the state budget surplus from about \$1.5 billion to about \$1.38 billion.

Gregoire's budget office said the overall surplus includes about \$954 million in general fund dollars, and about \$430 million dedicated for the newly voter-approved Rainy Day Fund.

Gregoire will use Thursday's projections to write her supplemental state budget, which will be unveiled next month. In a statement, Gregoire said the

forecast "reinforces the need to continue to save money."

State lawmakers, who return to Olympia just after the new year, will get another quarterly forecast in February before pushing their own budget proposals.

Thursday's forecast pegged government revenue for the 2007-2009 budget at about \$29.9 billion, a \$130.4 million reduction from the September estimates. Sohn said \$124.4 million of that cut is due to lower-than-expected collections from the real estate excise tax.

In addition, an accounting change cut the revenue total for the recently finished 2005-2007 budget cycle by \$2 million.

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American Institute of Architects, Washington Council
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Contractors Bonding & Insurance Co.
Inland Northwest Associated General Contractors
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National Association of Industrial & Office Properties,
Washington State Chapter
National Electrical Contractors Association, Cascade Chapter
National Electrical Contractors Association, Puget
Sound Chapter
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Western Washington
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