



Building Industry Association of Washington

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NEWS RELEASE

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Myths & Facts About SB 5550: So-Called “Homeowner Bill of Rights”

OLYMPIA—While Senator Brian Weinstein and Rep. Brendan Williams question the integrity of the Speaker of the House and hurl disparaging comments calling him a “dictator” and BIAW “right-wing thugs,” both legislators continue to spew lies regarding homeowner protections in Washington State in a desperate effort to promote SB 5550.

Proving honesty is not the best policy for these two trial attorney legislators, following is a run down of the lies that Weinstein and Williams have consistently told compared to the actual truth:

Myth: *California has a stricter warranty provision than what is proposed in SB 5550 and insurers haven’t fled the state en masse.*

Fact: California’s warranty law is very different (and far less stringent) than SB 5550 in the following ways:

- California requires a one year warranty—SB 5550 would require two, three, five and ten year warranties;
- California does not require general liability insurance—Washington does require liability insurance for all contractors;
- California allows alternative dispute resolution, limited exceptions and right to repair—*unlike* SB 5550.

SB 5550 WILL cause insurers to leave the state and will drive many builders out of business—according to public testimony from insurance company representatives.

Myth: *Thirty-three other states have greater protections for consumers against shoddy construction than Washington.*

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Fact: In fact, only seven states have mandatory statutory warranties. Of these seven, only three are for 10 years. Of these three, all of them allow alternative dispute resolution, right to repair, limited exceptions and other provisions not included in SB 5550. None is as strict as what is being proposed in SB 5550.

Washington is also one of only 15 states to require contractors' general liability insurance.

Myth: *Good builders who follow the state building code have 'nothing to worry about' if SB 5550 passes.*

Fact: ALL builders—good or bad, for profit or non profit—are required by law to purchase liability insurance in Washington. During the last liability insurance crisis in our state, builders' insurance rates went up by as much as 1000%—even for good builders who had never had a claim filed against them. All builders must purchase insurance in the same marketplace. Insurers have testified that the uncertainty in the market and the expanded litigation that will result from passage of SB 5550 will cause liability insurance rates to **quintuple** at the very least. Some large insurers have said they will leave the market in Washington altogether. This will have a dramatically negative impact on all builders—regardless of their quality of work, the size of their company, or whether they build for profit. Builders will struggle once again to find affordable insurance. This is something for all contractors to worry about.

Tying lawsuits into compliance with building codes is fraught with peril—the codes are many volumes thick, and are subject to interpretation by various officials. There is no such thing as a “perfect” house. SB 5550 would create the most hostile legal climate in the country for homebuilders.

Myth: *Construction defect problems are epidemic in Washington.*

Fact: In fact, there are very few complaints against builders in Washington. According to the Washington Policy Center less than 2% of registered contractors had complaints filed against them last year. In comparison, the complaint rate against lawyers was 470% higher.

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According to Criterium Engineers, “most residential construction is reasonably well done, considering the challenging environment in which a home is built.” That firm also found that the Pacific Northwest tied for the region with the fewest homes with construction defects.

***Myth:** Homebuilders are the only people in this state that can’t get sued.*

Fact: In fact, homeowners have a number of options to sue homebuilders:

- 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 (*Burbo v. Douglas* lessened the standard significantly, applying the implied warranty to any deviation from fundamental aspects of the building code);
- Sue under any available third party warranties;
- Follow the “cure” procedure, which gives the builder an opportunity to fix a problem before a suit may be filed;

Known as the “voice of the housing industry,” the Building Industry Association of Washington is the largest trade association in Washington State, representing over 350,000 families and 12,700 member companies involved in the homebuilding business.