



LAWS OF ALASKA

2004

Source

CSHB 340(JUD) am

Chapter No.

AN ACT

Relating to damages in an action for a defect in the design, construction, and remodeling of certain dwellings; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to damages in an action for a defect in the design, construction, and remodeling of
2 certain dwellings; and providing for an effective date.

3

4 * **Section 1.** AS 09.45.893(c) is amended to read:

5 (c) The notice required by (a) of this section must be conspicuous and must be
6 in substantially the following form:

7 ALASKA LAW AT AS 09.45.881 - 09.45.899 CONTAINS
8 IMPORTANT REQUIREMENTS THAT YOU MUST FOLLOW
9 BEFORE YOU MAY FILE A COURT ACTION FOR DEFECTIVE
10 DESIGN, CONSTRUCTION, OR REMODELING AGAINST THE
11 DESIGNER, BUILDER, OR REMODELER OF YOUR HOME.
12 WITHIN ONE YEAR OF THE DISCOVERY OF A DESIGN,
13 CONSTRUCTION, OR REMODELING DEFECT, BEFORE YOU
14 FILE A COURT ACTION, YOU MUST DELIVER TO THE

1 DESIGNER, BUILDER, OR REMODELER A WRITTEN NOTICE
2 OF ANY DESIGN, CONSTRUCTION, OR REMODELING
3 CONDITIONS YOU ALLEGE ARE DEFECTIVE IN ORDER TO
4 PROVIDE YOUR DESIGNER, BUILDER, OR REMODELER WITH
5 THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY
6 FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT
7 ANY OFFER MADE BY THE DESIGNER, BUILDER, OR
8 REMODELER. THERE ARE STRICT DEADLINES AND
9 PROCEDURES UNDER STATE LAW, AND FAILURE TO
10 FOLLOW THEM MAY AFFECT YOUR RIGHT TO FILE A COURT
11 ACTION. **ALASKA LAW AT AS 09.45.895 CONTAINS**
12 **LIMITATIONS TO THE AMOUNT OF DAMAGES THAT MAY**
13 **BE RECOVERED IN A COURT ACTION FOR DEFECTIVE**
14 **DESIGN, CONSTRUCTION, OR REMODELING.**

15 * **Sec. 2.** AS 09.45.895 is repealed and reenacted to read:

16 **Sec. 09.45.895. Limitation on damages; collateral sources.** (a) Except as
17 provided in (c) of this section, in an action covered under AS 09.45.881 - 09.45.899, a
18 claimant may recover only the following damages caused by a defect:

19 (1) the reasonable cost of repairs necessary to cure a defect, or actual
20 damages that result from the construction defect, including reasonable and necessary
21 engineering or consulting fees required to evaluate and cure the defect, that the
22 construction professional is responsible for repairing;

23 (2) the reasonable expenses of temporary housing reasonably
24 necessary during the repair period;

25 (3) the reduction in market value, if any, to the extent that the
26 reduction is due to the defect; and

27 (4) reasonable and necessary attorney fees and costs.

28 (b) In an action under AS 09.45.881 - 09.45.899, a court shall deduct from the
29 compensation awarded to a claimant any compensation paid to the claimant under a
30 homeowner's warranty contract or a homeowner's insurance policy as compensation
31 for the defects that are the subject of the action. The amount of this deduction does

1 not include any compensation paid by the construction professional to the claimant to
2 satisfy the claim, any compensation paid under an insurance policy issued to the
3 construction professional to satisfy the claim, or any amount the claimant is required
4 to repay under the terms of the homeowner's warranty contract or homeowner's
5 insurance policy.

6 (c) Subsections (a) and (b) of this section do not apply if the defect was caused
7 by gross negligence or reckless or intentional misconduct by the construction
8 professional.

9 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 APPLICABILITY. This Act applies to an action covered under AS 09.45.881 -
12 09.45.899 that accrues on or after the effective date of this Act.

13 * **Sec. 4.** This Act takes effect July 1, 2004.