

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Kottkamp offered the following:

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3 **Amendment to Amendment (986061)**

4 Remove lines 49-64 and insert:

5 inspection may include destructive testing by mutual agreement
6 under the following reasonable terms and conditions:

7 (a) If the person receiving notice under subsection (1)
8 determines that destructive testing is necessary to determine
9 the nature and cause of the alleged defects, such person shall
10 notify the claimant in writing.

11 (b) The notice shall describe the destructive testing to
12 be performed, the person selected to do the testing, the
13 estimated anticipated damage and repairs to the dwelling
14 resulting from the testing, the estimated amount of time
15 necessary for the testing and to complete the repairs, and the
16 financial responsibility offered for covering the costs of

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17 repairs.

18 (c) If the claimant promptly objects to the person
19 selected to perform the destructive testing, the person
20 receiving notice under subsection (1) shall provide the
21 claimant with a list of three qualified persons from which the
22 claimant may select one such person to perform the testing. The
23 person selected to perform the testing shall operate as an
24 agent or subcontractor of the person receiving notice under
25 subsection (1) and shall communicate with, submit any reports
26 to and be solely responsible to the person receiving notice.

27 (d) The testing shall be done at a mutually agreeable
28 time.

29 (e) The claimant or a representative of the claimant may
30 be present to observe the destructive testing.

31 (f) The destructive testing shall not render the
32 dwelling uninhabitable.

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34 In the event the claimant fails or refuses to agree to
35 destructive testing, the claimant shall have no claim for
36 damages which could have been avoided or mitigated had
37 destructive testing been allowed when requested and had a
38 feasible remedy been promptly implemented. ~~Prior to~~
39 ~~performing any destructive testing, the person who desires to~~
40 ~~perform the testing shall notify the claimant in writing of the~~
41 ~~type of testing to be performed, the anticipated damage to the~~
42 ~~dwelling which will be caused by the testing, and the~~
43 ~~anticipated repairs that will be necessary to repair any damage~~
44 ~~caused by the testing. The person performing the testing is~~

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45 | ~~responsible for repairing any damage to the dwelling caused by~~
46 | ~~the testing.~~

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