ASSEMBLY, No. 4903

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED OCTOBER 29, 2020

Sponsored by:
Assemblyman GORDON M. JOHNSON
District 37 (Bergen)
Assemblyman RAJ MUKHERJI
District 33 (Hudson)

SYNOPSIS
Adjusts statute of limitations on damage claim for construction defect in common interest community.

CURRENT VERSION OF TEXT
As introduced.

1   AN ACT concerning construction defects in common interest
2   communities and amending N.J.S.2A:14-1.
3
4   BE IT ENACTED *by the Senate and General Assembly of the State*
5   *of New Jersey:*
6
7   1.   N.J.S.2A:14-1 is amended to read as follows:
8   2A:14-1. a. Every action at law for trespass to real property, for
9   any tortious injury to real or personal property, for taking,
10   detaining, or converting personal property, for replevin of goods or
11   chattels, for any tortious injury to the rights of another not stated in
12   [sections 2A:14-2 and 2A:14-3 of this Title] N.J.S.2A:14-2 and
13   N.J.S.2A:14-3, or for recovery upon a contractual claim or liability,
14   express or implied, not under seal, or upon an account other than
15   one which concerns the trade or merchandise between merchant and
16   merchant, their factors, agents and servants, shall be commenced
17   within six years next after the cause of any such action shall have
18   accrued.
19   b.   This section shall not apply to any action for breach of any
20   contract for sale governed by [section 12A:2-725 of the New Jersey
21   Statutes] N.J.S.12A:2-725.
22   c.   The period of time for the filing of a claim by a
23   condominium association, cooperative corporation, or other planned
24   real estate development association against a developer or any
25   person acting through, on behalf of or at the behest of the developer
26   under subsection a. of this section, shall be tolled until the date of
27   the transition from developer control, as established pursuant to
28   paragraph (3) of subsection a. of section 5 of
29   P.L.1993, c.30 (C.45:22A-47), or subsection d. of section 2 of
30   P.L.1979, c.157 (C.46:8B-12.1). Any cause of action involving a
31   condominium, cooperative,   or other planned real estate
32   development under the provisions of subsection a. of this section
33   that has not been subject to a final judgment dismissing the claim as
34   of the effective date of P.L.   , c.   (pending before the Legislature
35   as this bill) shall be subject to the terms of this subsection.
36   (cf: P.L.1961, c.121, s.1)
37
38   2.   This act shall take effect immediately.
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40
41   STATEMENT
42
43   This bill would adjust the statute of limitations on damage claims
44   for construction defects in common interest communities.
45   Specifically, in a claim for damages resulting from a construction

1 defect in a condominium, cooperative, or other planned real estate
2 development, the bill would require the statute of limitations to begin
3 running at the time of the transition from developer control, instead of
4 substantial completion of the project.
5   The statute of limitations for filing a claim for damages resulting
6 from a construction defect currently runs for six years from the date of
7 a project's substantial completion, so long as the defect does not result
8 in an unsafe condition. A developer retains the ability to control the
9 majority of a common interest community's executive board until the
10 transition, which occurs sixty days after the conveyance of 75 percent
11 of the units in the community. This transition from developer control
12 can occur years after the project's substantial completion, leaving little
13 or no time within the six-year window for the owner-controlled board
14 to decide to file a claim against a developer, even when legitimate
15 defects exist. This bill would provide the owner-controlled board
16 more time to file a construction defect claim by requiring the statute of
17 limitations to begin running upon transition of developer control.