

[Passed Both Houses]

[Second Reprint]

ASSEMBLY, No. 2188

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**STATE OF NEW JERSEY**

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INTRODUCED JUNE 20, 1996

By Assemblymen DeCROCE and CHARLES

1 AN ACT concerning limitations on certain actions for damages and  
2 amending P.L.1967, c.59.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. Section 1 of P.L.1967, c.59 (C.2A:14-1.1) is amended to read as  
8 follows.

9 1. <sup>2</sup>a.<sup>2</sup> No action whether in contract, in tort, or otherwise to  
10 recover damages for any deficiency in the design, planning, supervision  
11 or construction of an improvement to real property, or for any injury  
12 to property, real or personal or for an injury to the person, or for  
13 bodily injury or wrongful death, arising out of the defective and unsafe  
14 condition of an improvement to real property, nor any action for  
15 contribution or indemnity for damages sustained on account of such  
16 injury, shall be brought against any person performing or furnishing  
17 the design, planning, supervision of construction or construction of  
18 such improvement to real property, more than 10 years after the  
19 performance or furnishing of such services and construction. This  
20 limitation shall serve as a bar to all such <sup>1</sup>[claims.] actions<sup>1</sup> both  
21 governmental and private but shall not apply to <sup>1</sup>actions against<sup>1</sup> any  
22 person in actual possession and control as owner, tenant, or otherwise,  
23 of the improvement at the time the defective and unsafe condition of  
24 such improvement constitutes the proximate cause of the injury or  
25 damage for which the action is brought.

26 <sup>2</sup>b. This section shall not bar an action by a governmental unit:

27 (1) on a written warranty, guaranty or other contract that expressly  
28 provides for a longer effective period;

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly ATC committee amendments adopted September 16, 1996.

<sup>2</sup> Senate floor amendments adopted December 11, 1997.

1     (2) based on willful misconduct, gross negligence or fraudulent  
2 concealment in connection with performing or furnishing the design,  
3 planning, supervision or construction of an improvement to real  
4 property;

5     (3) under any environmental remediation law or pursuant to any  
6 contract entered into by a governmental unit in carrying out its  
7 responsibilities under any environmental remediation law; or

8     (4) pursuant to any contract for application, enclosure, removal or  
9 encapsulation of asbestos.

10     c.<sup>2</sup> As used in this section <sup>2</sup>[the term "governmental"] :

11     "Asbestos " shall have the meaning as defined in chapter 5A of Title  
12 34 of the Revised Statutes (C.34:5A-34a) and any regulations adopted  
13 pursuant thereto.

14     "Environmental remediation law" means chapter 10B of Title 58 of  
15 the Revised States (C.58:10B-1 et seq.) and any regulations adopted  
16 pursuant thereto.

17     "Governmental"<sup>2</sup> means the State, its political subdivisions, any  
18 office, department, division, bureau, board, commission or <sup>1</sup>public  
19 authority or public<sup>1</sup> agency of the State or one of its political  
20 subdivisions, <sup>1</sup>[and any public authority or public agency.]<sup>1</sup> including  
21 but not limited to, <sup>1</sup>[the New Jersey Transit Corporation, the New  
22 Jersey Turnpike Authority and the University of Medicine and  
23 Dentistry]a county or a municipality and any board, commission,  
24 committee, authority or agency which is not a State board,  
25 commission, committee, authority or agency<sup>1</sup>.

26 (cf: P.L.1967, c.59, s.1)

27  
28     2. This act shall take effect immediately and shall <sup>2</sup>[be applicable  
29 to <sup>1</sup>any action arising out of or relating to<sup>1</sup> all completed, pending and  
30 future improvements] apply to any cause of action which accrues after  
31 the effective date of this act<sup>2</sup>.

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36     \_\_\_\_\_  
37 Bars public and private claims for certain deficiencies in improvements  
to real property after 10 years.