

SENATE, No. 2184

STATE OF NEW JERSEY

INTRODUCED JUNE 12, 1997

By Senators MATHEUSSEN and CIESLA

1 AN ACT concerning the liability of professional engineers for injuries
2 on construction sites and 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
8 as follows:

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

26 b. No professional engineer who is retained to perform only
27 professional services on a construction project, nor any employee of
28 a professional engineer who is assisting or representing the
29 professional engineer in the performance of professional services on
30 the site of the construction project, shall be liable for any injury on the
31 construction project for which compensation is recoverable under
32 R.S.34:15-7 et seq., unless responsibility for safety practices is
33 specifically assumed by contract. The immunity provided by this
34 subsection shall not apply to willful misconduct or gross negligence in

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.

1 the preparation of design plans or specifications.

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

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4 2. This act shall take effect immediately.

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STATEMENT

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9 In Carvalho v. Toll Bros. and Developers, 143 N.J. 565 (1996), the
10 New Jersey Supreme Court held that a professional engineer may be
11 liable for a worker's death caused by unsafe worksite conditions,
12 despite the fact that the contractor, not the engineer, was contractually
13 responsible for safety conditions at the site. As a result, professional
14 engineers are often sued for workplace injuries even though they are
15 not contractually responsible for workplace safety. The costs of these
16 lawsuits inevitably drive up engineering costs.

17 This bill would not interfere with the collection of worker's
18 compensation benefits when the worker is entitled to those benefits.
19 However, it would shield professional engineers from liability for
20 workers' personal injury suits, if: (1) the engineer did not assume
21 contractual responsibility for safety conditions at the worksite; or (2)
22 the engineer is not grossly negligent in the preparation of design plans
23 or specifications.

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28 Provides immunity from liability to professional engineers in certain
29 circumstances.