

Bill and Sponsors Statement identical to S1079

COMMITTEE STATEMENT:	ASSEMBLY:	Yes
	SENATE:	No
FLOOR AMENDMENT STATEMENTS:		No
LEGISLATIVE FISCAL ESTIMATE:		No
VETO MESSAGE:		No
GOVERNOR'S PRESS RELEASE ON SIGNING:		Yes

FOLLOWING WERE PRINTED:

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HEARINGS:	No
NEWSPAPER ARTICLES:	No

SENATE, No. 1079

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 16, 2000

Sponsored by:

Senator JAMES S. CAFIERO

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Establishes 10 year limitation on surveyor's liability with exception for adverse possession cases.

CURRENT VERSION OF TEXT

As introduced.



S1079 CAFIERO

2

1 **AN ACT** concerning limitation of liability for surveys under certain
2 circumstances, amending P.L.1967, c.59 and supplementing chapter
3 14 of Title 2A of the New Jersey Statutes.

4

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

7

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

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

27 b. This section shall not bar an action by a governmental unit:

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

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

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

37 (4) Pursuant to any contract for application, enclosure, removal or
38 encapsulation of asbestos.

39 c. As used in this section:

40 "Asbestos " shall have the meaning as defined in subsection a. of
41 section 3 of P.L.1984, c.17 (C.34:5A-34) and any regulations adopted
42 pursuant thereto.

43 "Environmental remediation law" means chapter 10B of Title 58 of

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

Matter underlined thus is new matter.

1 the Revised Statutes (C.58:10B-1 et seq.) and any regulations adopted
2 pursuant thereto.

3 "Governmental" means the State, its political subdivisions, any
4 office, department, division, bureau, board, commission or public
5 authority or public agency of the State or one of its political
6 subdivisions, including but not limited to, a county or a municipality
7 and any board, commission, committee, authority or agency which is
8 not a State board, commission, committee, authority or agency.
9 (cf: P.L.1997, c.355)

10

11 2. (New section) The 10 year time period limitation on actions for
12 the statute of repose set forth in section 1 of P.L.1967, c.59 (C.2A:14-
13 1.1) for surveying shall not be applicable to cases of adverse
14 possession. In adverse possession cases the statute of repose for
15 surveying shall be coterminous with the time period required for the
16 adverse possession.

17

18 3. This act shall take effect immediately.

19

20

21

STATEMENT

22

23 Current law provides a ten-year limitations period on any claim
24 arising out of a defect in improvement to real property in an action
25 against any person who designed, planned, supervised or constructed
26 the improvement.

27 Under this bill, persons who surveyed the property for purposes of
28 the improvement would also receive the benefit of this ten-year
29 limitation.

30 This bill also provides that in adverse possession cases the statute
31 of repose for surveying would be the same as the time period required
32 for the adverse possession. Generally, adverse possession cases may
33 be established after 20 years.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1079

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 2000

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1079.

N.J.S.A. 2A:14-1.1 currently provides a ten-year limitations period on any claim arising out of a defect in an improvement to real property in an action against any person who designed, planned, supervised or constructed the improvement. The bill would provide that the provisions of N.J.S.A.2A:14-1.1 would also be applicable to surveyors who surveyed the property for purposes of improvement.

This bill also provides that in adverse possession cases the statute of repose for surveying would be the same as the time period required for the adverse possession. Generally, adverse possession cases may be established after 20 years.

By amendment, the committee added a new section 2 to the bill. The new section provides that no action to recover damages for any deficiency in a survey performed for any purpose other improvement to the property may be brought more than 10 years after the completion of the survey or at any time after the transfer of title to the property from the person for whom the survey was performed.

[First Reprint]

SENATE, No. 1079

STATE OF NEW JERSEY

209th LEGISLATURE

INTRODUCED MARCH 16, 2000

Sponsored by:

Senator JAMES S. CAFIERO

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Establishes 10 year limitation on surveyor's liability with exception for adverse possession cases.

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee on June 22, 2000, with amendments.



1 AN ACT concerning limitation of liability for surveys under certain
2 circumstances, amending P.L.1967, c.59 and supplementing chapter
3 14 of Title 2A of the New Jersey Statutes.

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

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

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

27 b. This section shall not bar an action by a governmental unit:

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

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

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

37 (4) Pursuant to any contract for application, enclosure, removal or
38 encapsulation of asbestos.

39 c. As used in this section:

40 "Asbestos " shall have the meaning as defined in subsection a. of
41 section 3 of P.L.1984, c.17 (C.34:5A-34) and any regulations adopted
42 pursuant thereto.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SJU committee amendments adopted June 22, 2000.

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

4 "Governmental" means the State, its political subdivisions, any
5 office, department, division, bureau, board, commission or public
6 authority or public agency of the State or one of its political
7 subdivisions, including but not limited to, a county or a municipality
8 and any board, commission, committee, authority or agency which is
9 not a State board, commission, committee, authority or agency.

10 (cf: P.L.1997, c.355)

11
12 ¹2. (New section) No action whether in contract, in tort or
13 otherwise to recover damages for any deficiency in a survey of real
14 property performed under contract for any purpose other than for any
15 improvement to real property shall be taken against any person
16 performing or furnishing such survey:

17 a. More than 10 years after the performance or furnishing of such
18 survey; or

19 b. at any time after the transfer of the right, title or interest in the
20 real property from the person or entity for whom the survey was
21 contractually performed.¹

22
23 ¹[2.] 3.¹ (New section) The 10 year time period limitation on
24 actions for the statute of repose set forth in section 1 of P.L.1967,
25 c.59 (C.2A:14-1.1) for surveying shall not be applicable to cases of
26 adverse possession. In adverse possession cases the statute of repose
27 for surveying shall be coterminous with the time period required for
28 the adverse possession.

29
30 ¹[3.] 4.¹ This act shall take effect immediately.

[Second Reprint]

SENATE, No. 1079

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 16, 2000

Sponsored by:

Senator JAMES S. CAFIERO

District 1 (Cape May, Atlantic and Cumberland)

Co-Sponsored by:

Assemblymen Carroll, Merkt, Caraballo and Roberts

SYNOPSIS

Establishes 10 year limitation on surveyor's liability with exception for adverse possession cases.

CURRENT VERSION OF TEXT

As amended by the Senate on September 21, 2000.



(Sponsorship Updated As Of: 3/27/2001)

1 AN ACT concerning limitation of liability for surveys under certain
2 circumstances, amending P.L.1967, c.59 and supplementing chapter
3 14 of Title 2A of the New Jersey Statutes.

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

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

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

27 b. This section shall not bar an action by a governmental unit:

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

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

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

37 (4) Pursuant to any contract for application, enclosure, removal or
38 encapsulation of asbestos.

39 c. As used in this section:

40 "Asbestos " shall have the meaning as defined in subsection a. of
41 section 3 of P.L.1984, c.17 (C.34:5A-34) and any regulations adopted

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SJU committee amendments adopted June 22, 2000.

² Senate floor amendments adopted September 21, 2000.

1 pursuant thereto.

2 "Environmental remediation law" means chapter 10B of Title 58 of
3 the Revised Statutes (C.58:10B-1 et seq.) and any regulations adopted
4 pursuant thereto.

5 "Governmental" means the State, its political subdivisions, any
6 office, department, division, bureau, board, commission or public
7 authority or public agency of the State or one of its political
8 subdivisions, including but not limited to, a county or a municipality
9 and any board, commission, committee, authority or agency which is
10 not a State board, commission, committee, authority or agency.
11 (cf: P.L.1997, c.355)

12

13 ¹2. (New section) No action whether in contract, in tort or
14 otherwise to recover damages for any deficiency in a survey of real
15 property performed under contract for any purpose other than for any
16 improvement to real property shall be taken against any person
17 performing or furnishing such survey ²[:

18 a. ~~More]~~more² than 10 years after the performance or furnishing
19 of such survey ²[:or

20 b. at any time after the transfer of the right, title or interest in the
21 real property from the person or entity for whom the survey was
22 contractually performed] ² .¹

23

24 ¹[2.] 3.¹ (New section) The 10 year time period limitation on
25 actions for the statute of repose set forth in section 1 of P.L.1967,
26 c.59 (C.2A:14-1.1) for surveying shall not be applicable to cases of
27 adverse possession. In adverse possession cases the statute of repose
28 for surveying shall be coterminous with the time period required for
29 the adverse possession.

30

31 ¹[3.] 4.¹ This act shall take effect immediately.

STATEMENT TO

[First Reprint]

SENATE, No. 1079

with Senate Floor Amendments
(Proposed By Senator CAFIERO)

ADOPTED: SEPTEMBER 21, 2000

Section 2 of the bill provides that no action to recover damages for any deficiency in a survey performed for any purpose other than for improvement to the property may be brought more than 10 years after the completion of the survey or at any time after the transfer of title to the property from the person for whom the survey was performed. These amendments would delete the language granting immunity in actions brought at any time after the transfer of title from the person for whom the survey is performed.

ASSEMBLY, No. 2448

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MAY 22, 2000

Sponsored by:

Assemblyman MICHAEL PATRICK CARROLL

District 25 (Morris)

Assemblyman RICK MERKT

District 25 (Morris)

SYNOPSIS

Establishes 10 year limitation on surveyor's liability with exception for adverse possession cases.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning limitation of liability for surveys under certain
2 circumstances, amending P.L.1967, c.59 and supplementing chapter
3 14 of Title 2A of the New Jersey Statutes.

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

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

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

27 b. This section shall not bar an action by a governmental unit:

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

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

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

37 (4) Pursuant to any contract for application, enclosure, removal or
38 encapsulation of asbestos.

39 c. As used in this section:

40 "Asbestos " shall have the meaning as defined in subsection a. of
41 section 3 of P.L.1984, c.173 (C.34:5A-34) and any regulations
42 adopted pursuant thereto.

43 "Environmental remediation law" means chapter 10B of Title 58 of

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

Matter underlined thus is new matter.

1 the Revised Statutes (C.58:10B-1 et seq.) and any regulations adopted
2 pursuant thereto.

3 "Governmental" means the State, its political subdivisions, any
4 office, department, division, bureau, board, commission or public
5 authority or public agency of the State or one of its political
6 subdivisions, including but not limited to, a county or a municipality
7 and any board, commission, committee, authority or agency which is
8 not a State board, commission, committee, authority or agency.
9 (cf: P.L.1997, c.355)

10

11 2. (New section) The 10 year time period limitation on actions for
12 the statute of repose set forth in section 1 of P.L.1967, c.59 (C.2A:14-
13 1.1) for surveying shall not be applicable to cases of adverse
14 possession. In adverse possession cases the statute of repose for
15 surveying shall be coterminous with the time period required for the
16 adverse possession.

17

18 3. This act shall take effect immediately.

19

20

21

STATEMENT

22

23 Current law provides a ten-year limitations period on any claim
24 arising out of a defect in improvement to real property in an action
25 against any person who designed, planned, supervised or constructed
26 the improvement.

27 Under this bill, persons who surveyed the property for purposes of
28 the improvement would also receive the benefit of this ten-year
29 limitation.

30 This bill also provides that in adverse possession cases the statute
31 of repose for surveying would be the same as the time period required
32 for the adverse possession. Generally, adverse possession cases may
33 be established after 20 years.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2448

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 25, 2000

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2448.

N.J.S.A.2A:14-1.1 currently provides a ten-year limitations period on any claim arising out of a defect in an improvement to real property in an action against any person who designed, planned, supervised or constructed the improvement. The bill would provide that the provisions of N.J.S.A.2A:14-1.1 would also be applicable to surveyors who surveyed the property for purposes of improvement.

This bill also provides that in adverse possession cases the statute of repose for surveying would be the same as the time period required for the adverse possession. Generally, adverse possession cases may be established after 20 years.

By amendment, the committee added a new section 2 to the bill. The new section provides that no action to recover damages for any deficiency in a survey performed for any purpose other than for improvement to the property may be brought more than 10 years after the completion of the survey.

These amendments make this bill identical to Senate No. 1079 (2R).

[First Reprint]

ASSEMBLY, No. 2448

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MAY 22, 2000

Sponsored by:

Assemblyman MICHAEL PATRICK CARROLL

District 25 (Morris)

Assemblyman RICK MERKT

District 25 (Morris)

Co-Sponsored by:

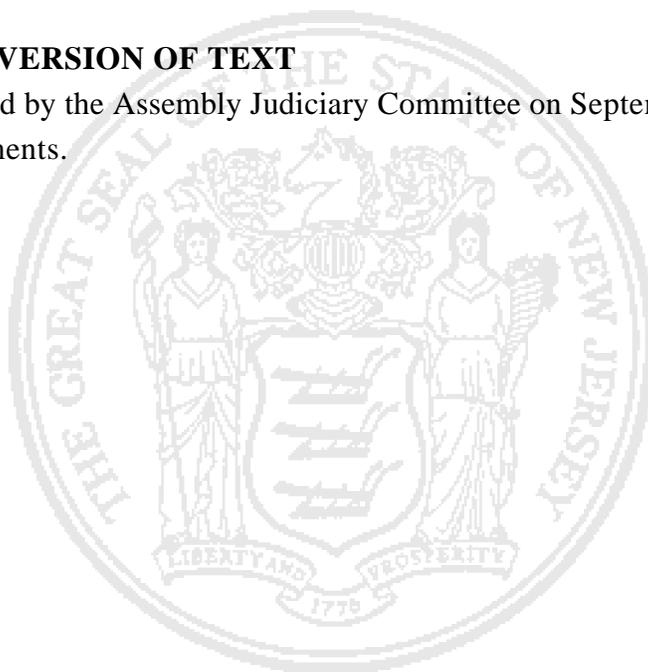
Assemblymen Caraballo and Roberts

SYNOPSIS

Establishes 10 year limitation on surveyor's liability with exception for adverse possession cases.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on September 25, 2000, with amendments.



(Sponsorship Updated As Of: 1/30/2001)

1 AN ACT concerning limitation of liability for surveys under certain
2 circumstances, amending P.L.1967, c.59 and supplementing chapter
3 14 of Title 2A of the New Jersey Statutes.

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

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

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

27 b. This section shall not bar an action by a governmental unit:

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

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

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

37 (4) Pursuant to any contract for application, enclosure, removal or
38 encapsulation of asbestos.

39 c. As used in this section:

40 "Asbestos " shall have the meaning as defined in subsection a. of
41 section 3 of P.L.1984, c.173 (C.34:5A-34) and any regulations
42 adopted pursuant thereto.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJU committee amendments adopted September 25, 2000.

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

4 "Governmental" means the State, its political subdivisions, any
5 office, department, division, bureau, board, commission or public
6 authority or public agency of the State or one of its political
7 subdivisions, including but not limited to, a county or a municipality
8 and any board, commission, committee, authority or agency which is
9 not a State board, commission, committee, authority or agency.

10 (cf: P.L.1997, c.355)

11
12 ¹2. (New section) No action whether in contract, in tort or
13 otherwise to recover damages for any deficiency in a survey of real
14 property performed under contract for any purpose other than for any
15 improvement to real property shall be taken against any person
16 performing or furnishing such survey more than 10 years after the
17 performance or furnishing of such survey.¹

18
19 ¹[2.] 3.¹ (New section) The 10 year time period limitation on
20 actions for the statute of repose set forth in section 1 of P.L.1967,
21 c.59 (C.2A:14-1.1) for surveying shall not be applicable to cases of
22 adverse possession. In adverse possession cases the statute of repose
23 for surveying shall be coterminous with the time period required for
24 the adverse possession.

25
26 ¹[3.] 4.¹ This act shall take effect immediately.

P.L. 2001, CHAPTER 76, *approved May 4, 2001*
Senate, No. 1079 (*Second Reprint*)

1 **AN ACT** concerning limitation of liability for surveys under certain
2 circumstances, amending P.L.1967, c.59 and supplementing chapter
3 14 of Title 2A of the New Jersey Statutes.

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

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

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

27 b. This section shall not bar an action by a governmental unit:

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

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

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

37 (4) Pursuant to any contract for application, enclosure, removal or
38 encapsulation of asbestos.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SJU committee amendments adopted June 22, 2000.

² Senate floor amendments adopted September 21, 2000.

1 c. As used in this section:

2 "Asbestos " shall have the meaning as defined in subsection a. of
3 section 3 of P.L.1984, c.17 (C.34:5A-34) and any regulations adopted
4 pursuant thereto.

5 "Environmental remediation law" means chapter 10B of Title 58 of
6 the Revised Statutes (C.58:10B-1 et seq.) and any regulations adopted
7 pursuant thereto.

8 "Governmental" means the State, its political subdivisions, any
9 office, department, division, bureau, board, commission or public
10 authority or public agency of the State or one of its political
11 subdivisions, including but not limited to, a county or a municipality
12 and any board, commission, committee, authority or agency which is
13 not a State board, commission, committee, authority or agency.
14 (cf: P.L.1997, c.355)

15
16 ¹2. (New section) No action whether in contract, in tort or
17 otherwise to recover damages for any deficiency in a survey of real
18 property performed under contract for any purpose other than for any
19 improvement to real property shall be taken against any person
20 performing or furnishing such survey ²[:

21 a. More]more² than 10 years after the performance or furnishing
22 of such survey ²[:or

23 b. at any time after the transfer of the right, title or interest in the
24 real property from the person or entity for whom the survey was
25 contractually performed] ² .¹

26
27 ¹[2.] 3.¹ (New section) The 10 year time period limitation on
28 actions for the statute of repose set forth in section 1 of P.L.1967,
29 c.59 (C.2A:14-1.1) for surveying shall not be applicable to cases of
30 adverse possession. In adverse possession cases the statute of repose
31 for surveying shall be coterminous with the time period required for
32 the adverse possession.

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34 ¹[3.] 4.¹ This act shall take effect immediately.

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39 Establishes 10 year limitation on surveyor's liability with exception for
40 adverse possession cases.

CHAPTER 76

AN ACT concerning limitation of liability for surveys under certain circumstances, amending P.L.1967, c.59 and supplementing chapter 14 of Title 2A of the New Jersey Statutes.

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

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

C.2A:14-1.1 Damages for injury from unsafe condition of improvement to real property; statute of limitations; exceptions; terms defined.

1. a. No action, whether in contract, in tort, or otherwise, to recover damages for any deficiency in the design, planning, surveying, supervision or construction of an improvement to real property, or for any injury to property, real or personal, or for an injury to the person, or for bodily injury or wrongful death, arising out of the defective and unsafe condition of an improvement to real property, nor any action for contribution or indemnity for damages sustained on account of such injury, shall be brought against any person performing or furnishing the design, planning, surveying, supervision of construction or construction of such improvement to real property, more than 10 years after the performance or furnishing of such services and construction. This limitation shall serve as a bar to all such actions, both governmental and private, but shall not apply to actions against any person in actual possession and control as owner, tenant, or otherwise, of the improvement at the time the defective and unsafe condition of such improvement constitutes the proximate cause of the injury or damage for which the action is brought.

b. This section shall not bar an action by a governmental unit:

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

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

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

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

c. As used in this section:

"Asbestos" shall have the meaning as defined in subsection a. of section 3 of P.L.1984, c.173 (C.34:5A-34) and any regulations adopted pursuant thereto.

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

"Governmental" means the State, its political subdivisions, any office, department, division, bureau, board, commission or public authority or public agency of the State or one of its political subdivisions, including but not limited to, a county or a municipality and any board, commission, committee, authority or agency which is not a State board, commission, committee, authority or agency.

C.2A:14-1.3 Prohibition of certain actions after 10 years.

2. No action whether in contract, in tort or otherwise to recover damages for any deficiency in a survey of real property performed under contract for any purpose other than for any improvement to real property shall be taken against any person performing or furnishing such survey more than 10 years after the performance or furnishing of such survey.

C.2A:14-1.4 Inapplicability of time limitation for adverse possession case.

3. The 10-year time period limitation on actions for the statute of repose set forth in section 1 of P.L.1967, c.59 (C.2A:14-1.1) for surveying shall not be applicable to cases of adverse possession. In adverse possession cases the statute of repose for surveying shall be coterminous with the time period required for the adverse possession.

4. This act shall take effect immediately.

Approved May 4, 2001.

Office of the Governor
NEWS RELEASE

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RELEASE: May 4 , 2001

Acting Governor Donald T. DiFrancesco signed the following legislation today:

S-2026, sponsored by Senators William Gormley (R-Atlantic) and John Matheussen (R-Camden/Gloucester) transfers the Bureau of Parole in the Department of Corrections to the State Parole Board thus consolidating the Bureau of Parole and the State Parole Board under one direct authority.

A-2083, sponsored by Senators Diane Allen (R-Burlington/Camden) and Robert Littell (R-Sussex/Hunterdon/Morris) and Assembly members Joseph Azzolina (R-Middlesex/Monmouth) and Charlotte Vandervalk (R-Bergen) establishes a statewide Sexual Assault Nurse Examiner program (SSANE) in the Office of the Attorney General. The SSANE program is aimed at ensuring more accurate collection of forensic evidence for use in prosecuting suspected rapists and creates a compassionate way to treat sexual assault victims.

S-1708, sponsored by Joseph Kyrillos (R-Middlesex/Monmouth) and Henry McNamara (R-Bergen/Passaic) and Assemblymen Samuel Thompson (R-Middlesex/ Monmouth) and Joseph Azzolina (R-Middlesex/Monmouth) requires the New Jersey Department of Transportation to prepare a plan for litter pickup and removal along the highways maintained by the department.

S-1709, sponsored by Senators Joseph Kyrillos (R-Middlesex/Monmouth) and Henry McNamara (R-Bergen/Passaic) and Assemblymen Joseph Azzolina (R-Middlesex/Monmouth) and Samuel Thompson (R-Middlesex/Monmouth) increases the penalties for littering by establishing a minimum penalty of \$100 for the offense of littering and a minimum fine of \$250 for any person convicted of littering within six months of a previous conviction for littering.

S-1079, sponsored by Senator John Cafiero (R-Cape May/Atlantic/Cumberland) and Assemblymen Michael Carroll (R-Morris) and Richard Merkt (R-Morris) establishes a ten-year limitation on surveyors' liability for deficiencies in a survey. There is an exception for adverse possession cases where the statute of limitations for surveying would be the same as the time period required for the adverse possession.

S-269, sponsored by Senators John Bennett (R-Monmouth) and John Lynch (D-Middlesex/Somerset/Union) and Assemblyman Michael Carroll (R-Morris) exempts from current post-employment restrictions any partnership, firm or corporation engaged in the practice of law with which a former member of the Judiciary is associated and any partner, officer, director or employee of the partnership, firm or corporation if the former member of the Judiciary 1) is associated with the firm in an 'of counsel' position without any equity interest and 2) is screened for a period of two years subsequent to termination of the former member's employment from any personal participation in any representation, appearance for or negotiation on behalf of any holder of or applicant for, a casino license.

A-2548, sponsored by Assembly members Loretta Weinberg (D-Bergen) and Ken Zisa (D-Bergen) allows municipalities to require owners of multiple dwellings comprised of more than 20 dwelling units to prepare an emergency evacuation plan. The plan must be prepared in coordination with local fire and emergency response agencies.

A-2793, sponsored by Senators William Schluter (R-Warren/Hunterdon/Mercer) and Joseph Littell (R-Sussex/Hunterdon/Morris) and Assemblyman Leonard Lance (R-Warren/Hunterdon/Mercer) requires the release of water from the Spruce Run and Round Valley reservoirs into the south branch of the Raritan River for the purpose of supporting recreational water use. Additionally, there is an appropriation for \$350,000 that creates a non-lapsing fund to defray the expense in releasing water from the Round Valley reservoir incurred by the New Jersey Water Supply Authority.

A-3039, sponsored by Senator Robert Singer (R-Burlington/Monmouth/Ocean) and Assemblymen Jeffrey Moran (R-Atlantic/Burlington/Ocean) and Anthony Impreveduto (D-Bergen/Hudson) allows any mortician who holds a license or certification from another state to become licensed in New Jersey through endorsement provided he has met education and experience requirements substantially equivalent to the requirements of current New Jersey law.