

2A:14-1.1

LEGISLATIVE HISTORY CHECKLIST
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(Damages--limitation of actions)

NJSA: 2A:14-1.1

LAWS OF: 1997 CHAPTER: 355

BILL NO: A2188

SPONSOR(S): DeCroce & Charles

DATE INTRODUCED: June 20, 1996

COMMITTEE: ASSEMBLY: Transportation & Communications
SENATE: Transportation

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by
Second reprint enacted superscript numbers

DATE OF PASSAGE: ASSEMBLY: October 21, 1996
SENATE: December 15, 1997

DATE OF APPROVAL: January 15, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes Also attached: statement,
adopted 12-11-97

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: ~~No~~ Yes
Legislative Fiscal Estimate
Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

[Passed Both Houses]

[Second Reprint]

ASSEMBLY, No. 2188

STATE OF NEW JERSEY

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.

3

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

6

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

9 1. ²a.² 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 ¹[claims.] actions¹ both
21 governmental and private but shall not apply to ¹actions against¹ 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 ²b. 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:

¹ Assembly ATC committee amendments adopted September 16, 1996.

² 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.² As used in this section ² [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"² means the State, its political subdivisions, any
18 office, department, division, bureau, board, commission or ¹public
19 authority or public¹ agency of the State or one of its political
20 subdivisions, ¹ [and any public authority or public agency,]¹ including
21 but not limited to, ¹ [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 agency¹.

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

27

28 2. This act shall take effect immediately and shall ² [be applicable
29 to ¹any action arising out of or relating to¹ all completed, pending and
30 future improvements] apply to any cause of action which accrues after
31 the effective date of this act².

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

1 2. This act shall take effect immediately and shall be applicable to
2 all completed, pending and future improvements.

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5 SPONSOR'S STATEMENT

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7 This bill amends N.J.S.A.2A:14-1.1 to provide that that section of
8 law is applicable to all claims, both governmental and private. That
9 section provides that damages for design deficiency or for bodily injury
10 resulting from defective improvements to real property may not be
11 brought more than 10 years after the performance or furnishing of
12 such services and construction. The sponsor's intention is to clarify
13 that the original and continuing intent of the Legislature is that this
14 statute be applied equally to claims by both private citizens and public
15 agencies.

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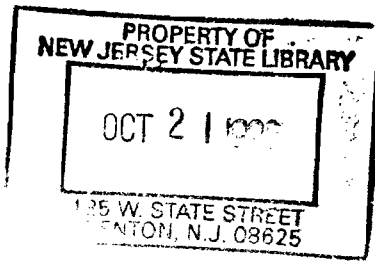
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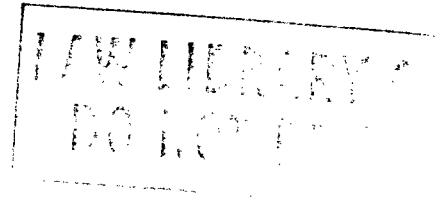
20 _____
21 Bars public and private claims for certain deficiencies in improvements
to real property after 10 years.

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS
COMMITTEE



STATEMENT TO
ASSEMBLY, No. 2188

with committee amendments



STATE OF NEW JERSEY

DATED: SEPTEMBER 16, 1996

The Assembly Transportation and Communications Committee favorably reports Assembly Bill No.2188 with committee amendments.

As amended by the committee, this bill would amend section 1 of P.L.1967, c.59 (C.2A:14-1.1) to clarify that the provisions of that section of law are applicable to all actions, including those brought by State and local public agencies. That section provides that actions for damages for design deficiency or defective improvements may not be brought more than 10 years after the performance or furnishing of such services and construction. The sponsors' intention is to clarify that the original and continuing intent of the Legislature that this statute be applied equally to claims by both private citizens and public agencies in all such actions against contractors, subcontractors, architects, sureties and engineers, among others.

The committee adopted amendments to clarify that the provisions of the bill apply to all State and local public agencies and to actions arising out of or relating to all completed, pending and future improvements.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2188

STATE OF NEW JERSEY

DATED: MARCH 3, 1997

The Senate Transportation Committee favorably reports Assembly Bill No. 2188 (1R).

This bill would amend section 1 of P.L.1967, c.59 (C.2A:14-1.1), concerning certain civil actions for damages, to clarify that the provisions of that section of law are applicable to all actions, including those brought by State and local public agencies. That section provides that actions for damages for design deficiency or defective improvements may not be brought more than 10 years after the performance or furnishing of such services and construction. The sponsors' intention is to clarify that the original and continuing intent of the Legislature is that this statute be applied equally to claims by both private citizens and public agencies in all such actions against contractors, subcontractors, architects, sureties and engineers, among others. The provisions of the bill are to apply to actions arising out of or relating to all completed, pending and future improvements.

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2188

with Senate Floor Amendments
(Proposed By Senator CIESLA)

ADOPTED: DECEMBER 11, 1997

These floor amendments would provide that the provisions of the bill would 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.

The amendments provide that asbestos shall have the meaning as defined in chapter 5A of Title 34 of the Revised Statutes (C.34:5A-34a) and any regulations adopted pursuant thereto and "environmental remediation law" means chapter 10B of Title 58 of the Revised States (C.58:10B-1 et seq.) and any regulations adopted pursuant thereto.

The floor amendments also amend the effective date to provide that the act shall apply to any cause of action which accrues after the effective date.

LEGISLATIVE FISCAL ESTIMATE TO

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[First Reprint]
ASSEMBLY, No. 2188

STATE OF NEW JERSEY

DATED: MAY 19, 1997

Assembly Bill No. 2188 (1R) of 1996 would provide that civil actions for damages caused by a deficiency in the design, planning, supervision or construction of an improvement to real property may not be brought by the State and local public agencies more than 10 years after the performing or furnishing of the services or construction.

The Office of Legislative Services (OLS) cannot estimate how often a governmental entity would bring an action to redress deficiencies in an improvement to real property that only become apparent more than 10 years after governmental acceptance of the improvement. Aside from the State's claim for \$31.24 million against the Cruz Construction Company, Inc. (Cruz) for the construction of an alleged defective water pipeline, it is unknown if similar claims may have been or might be initiated by other governmental entities. Therefore, the "cost" of this bill cannot be readily determined.

However, OLS would note that enactment of this bill would appear to deny the ability of the State to continue its \$31.24 million claim against Cruz given the retrospective as well as prospective effect of the amendment proposed by this bill.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

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OFFICE OF THE GOVERNOR NEWS RELEASE

PO BOX- 004

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RELEASE: Thurs. Jan. 15, 1998

Gov. Christie Whitman today signed legislation that cracks down on fraud perpetrated by physicians, health care providers and claimants and allows for the permanent revocation of professional licenses of those who abuse the system..

“Health care fraud is a known cause behind the high cost of health and automobile insurance rates. This legislation will strengthen our ability to go after those who take part in the filing of a false claim – whether they be a doctor, a pharmacist or any one else,” said Gov. Whitman. “And it helps us ensure that the punishment fits the crime. With this law, we will have the ability to take away the license – in some cases permanently -- of doctors who practice fraud.”

The legislation provides that licensed practitioners, including doctors, lawyers and pharmacists, who knowingly file a false, fraudulent or misleading statement in the course of providing services would be guilty of a crime of the second degree. A practitioner who recklessly commits such crimes during the course of providing professional services would be guilty of a crime of the third degree. The law also provides for the automatic revocation, or in some cases one-year suspension, of the state license of a practitioner who is found guilty of health-care claims fraud.

Under the new law, a person who is not acting as a licensed practitioner who knowingly submits, or attempts to submit, one fraudulent claim would be guilty of a third degree offense. A non-practitioner who knowingly submits to five or more claims valued at more than \$1,000 would be guilty of a second degree crime.

S-2270 was sponsored by Senator John Mattheussen (R-Camden/Gloucester) and Assembly Members Guy Talarico (R-Bergen) and Barbara Wright (R-Mercer/ Middlesex).

Gov. Whitman today also signed the following legislation:

A-2188, sponsored by Assembly members Alex DeCroce (R-Essex/Morris/Passaic) and Joseph Charles (D-Hudson), bars the filing of public and private claims for deficiencies in improvements

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to real property after ten years following the completion of the construction. Current law allowed public entities to file suit within ten years after the discovery of the defect. Private entities already have a limitation similar to that provided in the legislation signed today. The legislation equalizes the playing field to treat public and private entities in a similar fashion. Under the new law, exemptions would apply for willful misconduct or gross negligence. Projects under environmental remediation law or related to asbestos removal are also exempt from this new law. This law will apply only to a cause of action which occurs after the effective date of this bill.

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