

# Legislative Analysis



## STATUTE OF LIMITATIONS: FOR ARCHITECTS, ENGINEERS, & CONTRACTORS

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### Senate Bill 865

**Sponsor: Sen. Alan Sanborn**

**House Committee: Judiciary**

**Senate Committee: Judiciary**

**Complete to 11-10-08**

### A SUMMARY OF SENATE BILL 865 AS PASSED BY THE SENATE 2-14-08

The bill would revise the statute of limitations for bringing an action against an architect, professional engineer, land surveyor, or construction contractor.

In general, the statute of limitations, that is, the period of time in which to file an action charging malpractice is two years, with three years to file an action to recover damages for the death of a person or injury to a person or property. However, a separate statute allows an action against an licensed architect, licensed professional engineer, or contractor to recover damages for injuries (to a person or property) to be filed up to six years after the time of occupancy of the completed improvement, or one year after the defect was discovered or should have been discovered if the defect constituted proximate cause of the injury. An action cannot be maintained more than 10 years after the time of occupancy of the completed improvement.

Senate Bill 865 would amend the Revised Judicature Act to revise these procedures and would take effect 90 days after enactment. The bill would specify that the period of limitations (SOL) for an action against a licensed architect, professional engineer, land surveyor, or contractor based on an improvement to real property would be as provided in Section 5805, which provides the general SOL for malpractice and negligence as discussed above, but that the action could not be begun later than the applicable period established in Section 5839.

Section 5839 would be revised to prohibit a person from maintaining an action to recover damages for injuries arising out of the defective and unsafe condition of an improvement to real property against an architect or professional engineer who performed or furnished the design or supervision of construction of the improvement, or against any contractor making the improvement, unless the action was begun within either of the following periods:

- Six years after the time of occupancy of the completed improvement, use, or acceptance of the improvement.
- If the defect constituted the proximate cause of the injury or damage and was the result of gross negligence on the part of the contractor or architect or professional engineer, one year after the defect was discovered or should have been

discovered. However, an action could not be maintained under this provision more than 10 years after the time of occupancy of the completed improvement, use, or acceptance of the improvement.

The bill would retain the current provision that limits a person from maintaining an action to recover damages based on error or negligence of a licensed land surveyor in the preparation of a survey or report more than six years after the delivery of the survey or report to the person for whom it was made or the person's agent.

“Contractor” would be defined as an individual, corporation, partnership, or other business entity that makes an improvement to real property.

**FISCAL IMPACT:**

A fiscal analysis is in process.

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