



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 865 (Substitute S-3 as reported)
Sponsor: Senator Alan Sanborn
Committee: Judiciary

CONTENT

The bill would amend Chapter 58 (Limitations of Actions) of the Revised Judicature Act (RJA) to revise the period of limitations for an action against an architect, engineer, land surveyor, or construction contractor.

Except as otherwise provided, under Section 5805 of the RJA, the period of limitations for a malpractice action is two years, and the period of limitations for an action to recover damages for the death of or injury to a person is three years. Section 5805 also specifies that the period of limitations for an action against a State-licensed architect, professional engineer, land surveyor, or contractor, based on an improvement to real property, is as provided in Section 5839.

Under Section 5839, a person may not maintain an action to recover damages for injury to real or personal property, or for bodily injury or wrongful death, arising out of the defective and unsafe condition of an improvement to real property, or an action for contribution or indemnity for damages sustained as a result of such injury, against any State-licensed architect or professional engineer performing or furnishing the design or supervision of construction of the improvement, or against any contractor making the improvement, later than either of the following:

- Six years after the time of occupancy of the completed improvement, use, or acceptance of the improvement.
- One year after the defect is discovered or should have been discovered, if the defect constitutes the proximate cause of the injury or damage for which the action is brought and is the result of gross negligence on the part of the contractor, licensed architect, or professional engineer; but the action may not be maintained more than 10 years after the time of occupancy.

Also, under Section 5839, a person may not maintain an action to recover damages based on error or negligence of a State licensed land surveyor in the preparation of a survey or report more than six years after the delivery of the survey or report.

Under the bill, the period of limitations for an action against a State-licensed architect, professional engineer, land surveyor, or contractor would be as provided in Section 5805, but the action could not be commenced later than the applicable period established in Section 5839.

MCL 600.5805 & 600.5839

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 1-30-08

Fiscal Analyst: Stephanie Yu