



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 865 (as introduced 11-1-07)
Sponsor: Senator Alan Sanborn
Committee: Judiciary

Date Completed: 1-29-08

CONTENT

The bill would amend the Revised Judicature Act (RJA) to revise the statute of limitations for an action against an architect, engineer, or construction contractor by requiring the action to be brought within a period of repose.

(According to *Black's Law Dictionary*, Eighth Edition, "repose" means a statutory period after which an action cannot be brought in court, even if it expires before the plaintiff suffers any injury. A statute of repose is a statute barring any suit that is brought after a specified time since the defendant acted (such as by designing or manufacturing a product), even if this period ends before the plaintiff has suffered a resulting injury.)

Under the RJA, 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.

An action in the second instance may not be maintained more than 10 years after the time of occupancy of the completed improvement, use, or acceptance of the improvement.

Under the bill, an action against a State-licensed engineer, professional architect, or contractor could not be maintained unless it were commenced within these "periods of repose".

MCL 600.5805 & 600.5839

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Fiscal Analyst: Stephanie Yu

S0708\sb865sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.