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Senate Bill 35 (as introduced 1-27-09)
Sponsor: Senator Alan Sanborn
Committee: Judiciary

Date Completed: 3-30-09

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, Section 5805 of the RJA prescribes a two-year period of limitations for a malpractice action, and a three-year period of limitations for an action to recover damages for the death of or injury to a person (a general negligence action). 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. (That is, when an action arose within six years after occupancy, it would have to be brought within the two-year or three-year period prescribed in Section 5805, and an action could not be brought more than six years after occupancy.)

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

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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.