

SENATE BILL No. 35

January 27, 2009, Introduced by Senator SANBORN and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 5805 and 5839 (MCL 600.5805 and 600.5839),
section 5805 as amended by 2002 PA 715 and section 5839 as amended
by 1985 PA 188.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5805. (1) A person shall not bring or maintain an action
2 to recover damages for injuries to persons or property unless,
3 after the claim first accrued to the plaintiff or to someone
4 through whom the plaintiff claims, the action is commenced within
5 the periods of time prescribed by this section.

6 (2) ~~The~~**SUBJECT TO SUBSECTIONS (3) AND (4), THE** period of
7 limitations is 2 years for an action charging assault, battery, or
8 false imprisonment.

1 (3) The period of limitations is 5 years for an action
2 charging assault or battery brought by a person who has been
3 assaulted or battered by his or her spouse or former spouse, an
4 individual with whom he or she has had a child in common, or a
5 person with whom he or she resides or formerly resided. ~~This~~
6 ~~limitation applies to causes of action arising on or after February~~
7 ~~17, 2000 and to causes of action in which the period of limitations~~
8 ~~described in subsection (2) has not already expired as of February~~
9 ~~17, 2000.~~

10 (4) The period of limitations is 5 years for an action
11 charging assault and battery brought by a person who has been
12 assaulted or battered by an individual with whom he or she has or
13 has had a dating relationship. ~~This limitation applies to causes of~~
14 ~~action arising on or after January 1, 2003 and to causes of action~~
15 ~~in which the period of limitations described in subsection (2) has~~
16 ~~not already expired as of January 1, 2003.~~

17 (5) The period of limitations is 2 years for an action
18 charging malicious prosecution.

19 (6) Except as otherwise provided in this chapter, the period
20 of limitations is 2 years for an action charging malpractice.

21 (7) The period of limitations is 2 years for an action against
22 a sheriff charging misconduct or neglect of office by the sheriff
23 or the sheriff's deputies.

24 (8) The period of limitations is 2 years after the expiration
25 of the year for which a constable was elected for actions based on
26 the constable's negligence or misconduct as constable.

27 (9) The period of limitations is 1 year for an action charging

1 libel or slander.

2 (10) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE**
3 period of limitations is 3 years after the time of the death or
4 injury for all ~~other~~ actions to recover damages for the death of a
5 person, or for injury to a person or property.

6 (11) The period of limitations is 5 years for an action to
7 recover damages for injury to a person or property brought by a
8 person who has been assaulted or battered by his or her spouse or
9 former spouse, an individual with whom he or she has had a child in
10 common, or a person with whom he or she resides or formerly
11 resided. ~~This limitation applies to causes of action arising on or~~
12 ~~after February 17, 2000 and to causes of action in which the period~~
13 ~~of limitations described in subsection (10) has not already expired~~
14 ~~as of February 17, 2000.~~

15 (12) The period of limitations is 5 years for an action to
16 recover damages for injury to a person or property brought by a
17 person who has been assaulted or battered by an individual with
18 whom he or she has or has had a dating relationship. ~~This~~
19 ~~limitation applies to causes of action arising on or after January~~
20 ~~1, 2003 and to causes of action in which the period of limitations~~
21 ~~described in subsection (2) has not already expired as of January~~
22 ~~1, 2003.~~

23 (13) The period of limitations is 3 years for a products
24 liability action. However, in the case of a product that has been
25 in use for not less than 10 years, the plaintiff, in proving a
26 prima facie case, shall be required to do so without benefit of any
27 presumption.

1 (14) The period of limitations for an action against a state
 2 licensed architect, professional engineer, land surveyor, or
 3 contractor based on an improvement to real property shall be as
 4 provided in **THIS SECTION, BUT THE ACTION SHALL NOT BE COMMENCED**
 5 **LATER THAN THE APPLICABLE PERIOD ESTABLISHED IN** section 5839.

6 (15) As used in this section, "dating relationship" means
 7 frequent, intimate associations primarily characterized by the
 8 expectation of affectional involvement. Dating relationship does
 9 not include a casual relationship or an ordinary fraternization
 10 between 2 individuals in a business or social context.

11 Sec. 5839. (1) ~~No~~ **A** person ~~may~~ **SHALL NOT** maintain ~~any~~ **AN**
 12 action to recover damages for ~~any~~ injury to property, real or
 13 personal, or for bodily injury or wrongful death, arising out of
 14 the defective and unsafe condition of an improvement to real
 15 property, ~~nor any~~ **OR AN** action for contribution or indemnity for
 16 damages sustained as a result of such injury, against any state
 17 licensed architect or professional engineer performing or
 18 furnishing the design or supervision of construction of the
 19 improvement, or against any contractor making the improvement, ~~more~~
 20 ~~than 6~~ **UNLESS THE ACTION IS COMMENCED WITHIN EITHER OF THE**
 21 **FOLLOWING PERIODS:**

22 (A) **SIX** years after the time of occupancy of the completed
 23 improvement, use, or acceptance of the improvement. ~~, or 1 year~~
 24 ~~after the defect is discovered or should have been discovered,~~
 25 ~~provided that~~

26 (B) **IF** the defect constitutes the proximate cause of the
 27 injury or damage for which the action is brought and is the result

1 of gross negligence on the part of the contractor or licensed
 2 architect or professional engineer, **1 YEAR AFTER THE DEFECT IS**
 3 **DISCOVERED OR SHOULD HAVE BEEN DISCOVERED.** However, ~~no such AN~~
 4 **action TO WHICH THIS SUBDIVISION APPLIES** shall **NOT** be maintained
 5 more than 10 years after the time of occupancy of the completed
 6 improvement, use, or acceptance of the improvement.

7 (2) ~~No A person may~~ **SHALL NOT** maintain ~~any AN~~ action to
 8 recover damages based on error or negligence of a state licensed
 9 land surveyor in the preparation of a survey or report more than 6
 10 years after the delivery of the survey or report to the person for
 11 whom it was made or the person's agent.

12 (3) As used in this section: ~~,"state~~

13 (A) **"CONTRACTOR" MEANS AN INDIVIDUAL, CORPORATION,**
 14 **PARTNERSHIP, OR OTHER BUSINESS ENTITY THAT MAKES AN IMPROVEMENT TO**
 15 **REAL PROPERTY.**

16 (B) **"STATE** licensed architect or professional engineer" or
 17 "state licensed land surveyor" means ~~any AN~~ individual so licensed,
 18 or ~~any A~~ corporation, partnership, or other business entity on
 19 behalf of whom the state licensed architect, professional engineer,
 20 or land surveyor is performing or directing the performance of the
 21 architectural, professional engineering, or land surveying service.

22 ~~—— (4) As used in this section, "contractor" means an individual,~~
 23 ~~corporation, partnership, or other business entity which makes an~~
 24 ~~improvement to real property.~~

25 ~~—— (5) The amendments to subsection (1) added by this amendatory~~
 26 ~~act shall not apply to any state licensed architect or professional~~
 27 ~~engineer performing or furnishing the design or supervision of~~

1 ~~construction of an improvement if, prior to the effective date of~~
2 ~~this amendatory act, 6 or more years have expired after the time of~~
3 ~~occupancy of the completed improvement, use, or acceptance of the~~
4 ~~improvement.~~

5 ~~—— (6) The changes to subsection (1) made by this 1985 amendatory~~
6 ~~act shall apply only to a cause of action which accrues on or after~~
7 ~~the effective date of this 1985 amendatory act and shall not apply~~
8 ~~to a cause of action which accrues before the effective date of~~
9 ~~this 1985 amendatory act.~~

10 Enacting section 1. This amendatory act takes effect 90 days
11 after the date it is enacted into law.