

ASSEMBLY BILL NO. 44—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE GOVERNOR)

PREFILED DECEMBER 14, 2010

Referred to Committee on Judiciary

SUMMARY—Revises the statutes of repose regarding actions for damages resulting from certain deficiencies in construction. (BDR 2-418)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to civil actions; revising the statutes of repose regarding actions for damages resulting from certain deficiencies in construction; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law generally limits the period in which an action for damages caused
- 2 by a deficiency in construction of improvements to real property may be
- 3 commenced after substantial completion of the improvement, unless the deficiency
- 4 is a result of willful misconduct or was fraudulently concealed. (NRS 11.202-
- 5 11.205) These periods of limitation are known as statutes of repose, and the period
- 6 set forth in each statute of repose during which an action must be commenced after
- 7 substantial completion of the improvement depends on the particular type of
- 8 deficiency in construction.
- 9 **Section 1** of this bill reduces the period in the existing statute of repose for a
- 10 known deficiency in construction from 10 years after substantial completion of the
- 11 improvement to 3 years. **Section 2** of this bill reduces the period in the existing
- 12 statute of repose for a latent deficiency from 8 years after substantial completion of
- 13 the improvement to 4 years. **Section 3** of this bill reduces the period in the existing
- 14 statute of repose for a patent deficiency from 6 years after substantial completion of
- 15 the improvement to 3 years.
- 16 **Sections 1-3** also eliminate the existing provisions that allow such actions to be
- 17 commenced within 2 years after the date of an injury which occurs during the final
- 18 year of the particular period of limitation.
- 19 **Section 4** of this bill provides that the revised statutes of repose set forth in
- 20 **sections 1-3** apply retroactively under certain circumstances. **Section 4** also
- 21 establishes a 1-year grace period during which a person may commence an action



22 pursuant to NRS 11.203, 11.204 or 11.205 if the action accrued before October 1,
23 2011.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 11.203 is hereby amended to read as follows:

2 11.203 1. Except as otherwise provided in NRS 11.202 ,
3 **11.204** and 11.206, no action may be commenced against the owner,
4 occupier or any person performing or furnishing the design,
5 planning, supervision or observation of construction, or the
6 construction of an improvement to real property more than ~~10~~ **3**
7 years after the substantial completion of such an improvement, for
8 the recovery of damages for:

9 (a) Any deficiency in the design, planning, supervision or
10 observation of construction or the construction of such an
11 improvement which is known or through the use of reasonable
12 diligence should have been known to him or her;

13 (b) Injury to real or personal property caused by any such
14 deficiency; or

15 (c) Injury to or the wrongful death of a person caused by any
16 such deficiency.

17 2. ~~Notwithstanding the provisions of NRS 11.190 and~~
18 ~~subsection 1 of this section, if an injury occurs in the 10th year after~~
19 ~~the substantial completion of such an improvement, an action for~~
20 ~~damages for injury to property or person, damages for wrongful~~
21 ~~death resulting from such injury or damages for breach of contract~~
22 ~~may be commenced within 2 years after the date of such injury,~~
23 ~~irrespective of the date of death, but in no event may an action be~~
24 ~~commenced more than 12 years after the substantial completion of~~
25 ~~the improvement.~~

26 ~~—3.~~ The provisions of this section do not apply to a claim for
27 indemnity or contribution.

28 **Sec. 2.** NRS 11.204 is hereby amended to read as follows:

29 11.204 1. Except as otherwise provided in NRS 11.202 ~~;~~
30 ~~11.203~~ and 11.206, no action may be commenced against the
31 owner, occupier or any person performing or furnishing the design,
32 planning, supervision or observation of construction, or the
33 construction ~~;~~ of an improvement to real property more than ~~8~~ **4**
34 years after the substantial completion of such an improvement, for
35 the recovery of damages for:

36 (a) Any latent deficiency in the design, planning, supervision or
37 observation of construction or the construction of such an
38 improvement;



1 (b) Injury to real or personal property caused by any such
2 deficiency; or

3 (c) Injury to or the wrongful death of a person caused by any
4 such deficiency.

5 2. ~~[Notwithstanding the provisions of NRS 11.190 and~~
6 ~~subsection 1 of this section, if an injury occurs in the eighth year~~
7 ~~after the substantial completion of such an improvement, an action~~
8 ~~for damages for injury to property or person, damages for wrongful~~
9 ~~death resulting from such injury or damages for breach of contract~~
10 ~~may be commenced within 2 years after the date of such injury,~~
11 ~~irrespective of the date of death, but in no event may an action be~~
12 ~~commenced more than 10 years after the substantial completion of~~
13 ~~the improvement.~~

14 ~~—3.]~~ The provisions of this section do not apply to a claim for
15 indemnity or contribution.

16 ~~[4.]~~ 3. For the purposes of this section, “latent deficiency”
17 means a deficiency which is not apparent by reasonable inspection.

18 **Sec. 3.** NRS 11.205 is hereby amended to read as follows:

19 11.205 1. Except as otherwise provided in NRS 11.202 ~~;~~
20 ~~11.203]~~ and 11.206, no action may be commenced against the
21 owner, occupier or any person performing or furnishing the design,
22 planning, supervision or observation of construction, or the
23 construction of an improvement to real property more than ~~[6.]~~ 3
24 years after the substantial completion of such an improvement, for
25 the recovery of damages for:

26 (a) Any patent deficiency in the design, planning, supervision or
27 observation of construction or the construction of such an
28 improvement;

29 (b) Injury to real or personal property caused by any such
30 deficiency; or

31 (c) Injury to or the wrongful death of a person caused by any
32 such deficiency.

33 2. ~~[Notwithstanding the provisions of NRS 11.190 and~~
34 ~~subsection 1 of this section, if an injury occurs in the sixth year after~~
35 ~~the substantial completion of such an improvement, an action for~~
36 ~~damages for injury to property or person, damages for wrongful~~
37 ~~death resulting from such injury or damages for breach of contract~~
38 ~~may be commenced within 2 years after the date of such injury,~~
39 ~~irrespective of the date of death, but in no event may an action be~~
40 ~~commenced more than 8 years after the substantial completion of~~
41 ~~the improvement.~~

42 ~~—3.]~~ The provisions of this section do not apply to a claim for
43 indemnity or contribution.

44 ~~[4.]~~ 3. For the purposes of this section, “patent deficiency”
45 means a deficiency which is apparent by reasonable inspection.



1 **Sec. 4.** 1. Except as otherwise provided in subsection 2, the
2 period of limitations on actions set forth in NRS 11.203, 11.204 and
3 11.205, as amended by sections 1, 2 and 3 of this act, apply
4 retroactively to actions in which the substantial completion of the
5 improvement to real property occurred before October 1, 2011.
6 2. The provisions of subsection 1 do not limit an action:
7 (a) That accrued before October 1, 2011, and is commenced
8 before October 1, 2012; or
9 (b) If doing so would constitute an impairment of the obligation
10 of contracts under the Constitution of the United States or the
11 Constitution of the State of Nevada.

