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H.576

Introduced by Representatives Bancroft of Westford and Woodward of
Johnson

Referred to Committee on

Date:

Subject: Court procedure; limitations on actions; statute of repose; actions
arising out of improvements to real property

Statement of purpose of bill as introduced: This bill proposes to establish a
10-year statute of repose for an action arising out of improvements to real
property brought against an architect, builder, contractor, land surveyor, or
professional engineer.

An act relating to a 10-year statute of repose for actions arising out of
improvements to real property

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 12 V.S.A. § 525 is added to read:

§ 525. ACTION ARISING OUT OF IMPROVEMENTS TO REAL
PROPERTY; STATUTE OF REPOSE

(a) Except as otherwise provided in this section, a civil action for personal
injury or property damages against an architect, builder, contractor, land
surveyor, or professional engineer arising out of a deficiency in the creation of

1 an improvement to real property, including the design, planning, contract
2 administration, supervision, or construction of the improvement, shall be
3 brought within ten years after substantial completion of the improvement. In
4 the case of wrongful death that occurs during the seventh, eighth, ninth, or
5 tenth year after substantial completion of the improvement, an action to
6 recover damages for the death may be brought within one year after the date of
7 injury, but in no event shall the action be brought more than 11 years after
8 substantial completion of the improvement.

9 (b) Subsection (a) of this section shall not apply to actions involving
10 fraudulent misrepresentations or to actions involving the fraudulent
11 concealment of material facts upon which a claim might be based, which are
12 governed by section 555 of this title.

13 (c) Nothing in this section shall affect the liabilities of a person having
14 actual possession or control of an improvement to real property as owner or
15 lawful possessor of the property, and nothing contained in this section shall
16 alter or amend the time within which an action in tort may be brought for
17 damages arising out of negligence in the repair, maintenance, or upkeep of an
18 improvement to real property performed by a person having actual possession
19 or control of the improvement to the property as owner or lawful possessor of
20 the property.

1 (d) As used in this section:

2 (1) “Architect” shall have the same meaning as in 26 V.S.A. § 121(1).

3 (2) “Builder” shall have the same meaning as in 30 V.S.A. § 51(a)(1).

4 (3) “Contractor” shall have the same meaning as in 9 V.S.A. § 4001(1).

5 (4) “Land surveyor” shall have the same meaning as in 26 V.S.A.

6 § 2502(3).

7 (5) “Professional engineer” shall have the same meaning as in 26 V.S.A.

8 § 1161(7).

9 (6) “Substantial completion” means that construction is sufficiently
10 complete so that an improvement may be utilized by its owner or lawful
11 possessor for the purposes intended. In the case of a phased project with more
12 than one substantial completion date, the ten-year period of limitations for
13 actions involving systems designed to serve the entire project shall begin at the
14 substantial completion of each phase.

15 Sec. 2. EFFECTIVE DATE

16 This act shall take effect on July 1, 2016.