

1 S.17

2 Introduced by Senators Ashe and Mullin

3 Referred to Committee on

4 Date:

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

7 Statement of purpose of bill as introduced: This bill proposes to establish a
8 10-year statute of repose for an action arising out of improvements to real
9 property brought against an architect, builder, contractor, land surveyor, or
10 professional engineer.

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

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

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

15 § 525. ACTION ARISING OUT OF IMPROVEMENTS TO REAL

16 PROPERTY; STATUTE OF REPOSE

17 (a) Except as otherwise provided in this section, a civil action for personal
18 injury or property damages against an architect, builder, contractor, land
19 surveyor, or professional engineer arising out of a deficiency in the creation of
20 an improvement to real property, including the design, planning, contract

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

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

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

20 (d) As used in this section:

21 (1) "Architect" shall have the same meaning as in 26 V.S.A. § 121(1).

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

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

3 (4) “Land surveyor” shall have the same meaning as in 26 V.S.A.
4 § 2502(3).

5 (5) “Professional engineer” shall have the same meaning as in 26 V.S.A.
6 § 1161(7).

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

13 Sec. 2. EFFECTIVE DATE

14 This act shall take effect on July 1, 2015.