

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 291
HOUSE BILL 907

AN ACT TO AUTHORIZE THE STATE AND ITS POLITICAL SUBDIVISIONS TO
BE SUBJECT TO STATUTES OF LIMITATION AND REPOSE FOR CERTAIN
CIVIL ACTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-50 reads as rewritten:

"§ 1-50. Six years.

(a) Within six years an action –

- (1) Upon the official bond of a public officer.
- (2) Against an executor, administrator, collector, or guardian on his official bond, within six years after the auditing of his final account by the proper officer, and the filing of the audited account as required by law.
- (3) For injury to any incorporeal hereditament.
- (4) Against a corporation, or the holder of a certificate or duplicate certificate of stock in the corporation, on account of any dividend, either a cash or stock dividend, paid or allotted by the corporation to the holder of the certificate or duplicate certificate of stock in the corporation.
- (5)
 - a. No action to recover damages based upon or arising out of the defective or unsafe condition of an improvement to real property shall be brought more than six years from the later of the specific last act or omission of the defendant giving rise to the cause of action or substantial completion of the improvement.
 - b. For purposes of this subdivision, an action based upon or arising out of the defective or unsafe condition of an improvement to real property includes:
 1. Actions to recover damages for breach of a contract to construct or repair an improvement to real property;
 2. Actions to recover damages for the negligent construction or repair of an improvement to real property;
 3. Actions to recover damages for personal injury, death or damage to property;

4. Actions to recover damages for economic or monetary loss;
 5. Actions in contract or in tort or otherwise;
 6. Actions for contribution indemnification for damages sustained on account of an action described in this subdivision;
 7. Actions against a surety or guarantor of a defendant described in this subdivision;
 8. Actions brought against any current or prior owner of the real property or improvement, or against any other person having a current or prior interest therein;
 9. Actions against any person furnishing materials, or against any person who develops real property or who performs or furnishes the design, plans, specifications, surveying, supervision, testing or observation of construction, or construction of an improvement to real property, or a repair to an improvement to real property.
- c. For purposes of this subdivision, 'substantial completion' means that degree of completion of a project, improvement or specified area or portion thereof (in accordance with the contract, as modified by any change orders agreed to by the parties) upon attainment of which the owner can use the same for the purpose for which it was intended. The date of substantial completion may be established by written agreement.
- d. The limitation prescribed by this subdivision shall not be asserted as a defense by any person in actual possession or control, as owner, tenant or otherwise, of the improvement at the time the defective or unsafe condition constitutes the proximate cause of the injury or death for which it is proposed to bring an action, in the event such person in actual possession or control either knew, or ought reasonably to have known, of the defective or unsafe condition.
- e. The limitation prescribed by this subdivision shall not be asserted as a defense by any person who shall have been guilty of fraud, or willful or wanton negligence in furnishing materials, in developing real property, in performing or furnishing the design, plans, specifications, surveying, supervision, testing or observation of construction, or construction of an improvement to real property, or a repair to an improvement to real property, or to a surety or guarantor of any of the foregoing persons, or to any person who shall wrongfully conceal any such fraud, or willful or wanton negligence.

- f. This subdivision prescribes an outside limitation of six years from the later of the specific last act or omission or substantial completion, within which the limitations prescribed by G.S. 1-52 and 1-53 continue to run. For purposes of the three-year limitation prescribed by G.S. 1-52, a cause of action based upon or arising out of the defective or unsafe condition of an improvement to real property shall not accrue until the injury, loss, defect or damage becomes apparent or ought reasonably to have become apparent to the claimant. However, as provided in this subdivision, no action may be brought more than six years from the later of the specific last act or omission or substantial completion.
 - g. The limitation prescribed by this subdivision shall apply to the exclusion of G.S. 1-15(c), G.S. 1-52(16) and G.S. 1-47(2).
- (6) No action for the recovery of damages for personal injury, death or damage to property based upon or arising out of any alleged defect or any failure in relation to a product shall be brought more than six years after the date of initial purchase for use or consumption.
- (7) a. No action against any registered land surveyor as defined in G.S. 89C-3(9) or any person acting under his supervision and control for physical damage or for economic or monetary loss due to negligence or a deficiency in the performance of surveying or platting shall be brought more than 10 years from the last act or omission giving rise to the cause of action.
- b. For purposes of this subdivision, 'surveying and platting' means boundary surveys, topographical surveys, surveys of property lines, and any other measurement or surveying of real property and the consequent graphic representation thereof.
- c. The limitation prescribed by this subdivision shall apply to the exclusion of G.S. 1-15(c) and G.S. 1-52(16).

(b) This section applies to actions brought by a private party and to actions brought by the State or a political subdivision of the State."

Sec. 2. This act repeals the common law doctrine of nullum tempus occurrit regi for civil actions brought by the State or a political subdivision of the State when the action is subject to G.S. 1-50, as amended by Section 1 of this act, when brought by a private party.

Sec. 3. This act becomes effective October 1, 1995, and applies to civil actions commenced on or after that date.

In the General Assembly read three times and ratified this the 19th day of June, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives