

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 574
Judiciary II Committee Substitute Adopted 5/2/13
House Committee Substitute Favorable 6/12/14
Fourth Edition Engrossed 6/13/14

Short Title: Groundwater Contamination/Modify Response.

(Public)

Sponsors:

Referred to:

April 2, 2013

1 A BILL TO BE ENTITLED
2 AN ACT CLARIFYING THAT CERTAIN CIVIL ACTIONS RELATING TO
3 GROUNDWATER CONTAMINATION ARE NOT SUBJECT TO THE TEN-YEAR
4 STATUTE OF REPOSE SET FORTH IN G.S. 1-52.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** The General Assembly finds that prior to the United States Supreme
7 Court ruling in *CTS Corp. v. Waldburger*, that there was ambiguity and uncertainty regarding
8 the effect of federal law on the North Carolina statute of repose in certain environmental cases.
9 The General Assembly finds that it was the intent of the legislature to maximize under federal
10 law the amount of time a claimant had to bring a claim predicated on exposure to a contaminant
11 regulated by federal or State law. The General Assembly finds that the Supreme Court's
12 decision is inconsistent with the legislature's intentions and the legislature's understanding of
13 federal law at the time that certain actions were filed.

14 **SECTION 2.** G.S. 1-52 reads as rewritten:

15 "**§ 1-52. Three years.**

16 Within three years an action -

17 ...

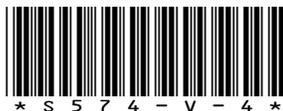
18 (16) Unless otherwise provided by ~~statute, law,~~ for personal injury or physical
19 damage to claimant's property, the cause of action, except in causes of
20 actions referred to in G.S. 1-15(c), shall not accrue until bodily harm to the
21 claimant or physical damage to his property becomes apparent or ought
22 reasonably to have become apparent to the claimant, whichever event first
23 occurs. ~~Provided that~~ Except as provided in G.S. 130A-26.3, no cause of
24 action shall accrue more than 10 years from the last act or omission of the
25 defendant giving rise to the cause of action.

26"

27 **SECTION 3.** Article 1 of Chapter 130A of the General Statutes is amended by
28 adding a new section to read:

29 "**§ 130A-26.3 Limitations period for certain groundwater contamination actions.**

30 The 10-year period set forth in G.S. 1-52(16) shall not be construed to bar an action for
31 personal injury, or property damages caused or contributed to by the consumption, exposure, or
32 use of water supplied from groundwater contaminated by a hazardous substance, pollutant, or
33 contaminant. For purposes of this subsection, "contaminated by a hazardous substance,



1 pollutant, or contaminant" means the concentration of the hazardous substance, pollutant, or
2 contaminant exceeds a groundwater quality standard set forth in 15A NCAC 2L .0202."

3 **SECTION 4.** This act is effective when it becomes law and applies to actions
4 arising or pending on or after that date. For purposes of this section, an action is pending for a
5 plaintiff if there has been no final disposition with prejudice and mandate issued against that
6 plaintiff issued by the highest court of competent jurisdiction where the claim was timely filed
7 or appealed as to all the plaintiff's claims for relief to which this act otherwise applies. This act
8 expires on June 19, 2023, and is not effective for claims for relief brought on or after that date,
9 but does not affect actions pending on that date.