

SENATE BILL No. 882

September 30, 2009, Introduced by Senator SANBORN and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 5839 (MCL 600.5839), as amended by 1985 PA 188.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5839. (1) AN ACTION AGAINST A STATE LICENSED ARCHITECT,
2 PROFESSIONAL ENGINEER, CONTRACTOR, OR LICENSED SURVEYOR IS SUBJECT
3 TO THE APPLICABLE PERIODS OF LIMITATION AS PROVIDED IN THIS
4 CHAPTER. HOWEVER, THIS SECTION ALSO APPLIES TO AN ACTION AGAINST A
5 STATE LICENSED ARCHITECT, PROFESSIONAL ENGINEER, CONTRACTOR, OR
6 LICENSED SURVEYOR AS AN ADDITIONAL LIMITATION.

7 (2) ~~(1) No~~ A person ~~may~~ SHALL NOT maintain any action to
8 recover damages for any injury to property, real or personal, or

1 for bodily injury or wrongful death, arising out of the defective
 2 and unsafe condition of an improvement to real property, ~~nor any OR~~
 3 **AN** action for contribution or indemnity for damages sustained as a
 4 result of such injury, against any state licensed architect or
 5 professional engineer performing or furnishing the design or
 6 supervision of construction of the improvement, or against any
 7 contractor making the improvement, ~~more than 6~~ **UNLESS THE ACTION IS**
 8 **COMMENCED WITHIN EITHER OF THE FOLLOWING PERIODS:**

9 (A) **SIX** years after the time of occupancy of the completed
 10 improvement, use, or acceptance of the improvement. ~~, or 1 year~~
 11 ~~after the defect is discovered or should have been discovered,~~
 12 ~~provided that~~

13 (B) **IF** the defect constitutes the proximate cause of the
 14 injury or damage for which the action is brought and is the result
 15 of gross negligence on the part of the contractor or licensed
 16 architect or professional engineer, **1 YEAR AFTER THE DEFECT IS**
 17 **DISCOVERED OR SHOULD HAVE BEEN DISCOVERED.** However, ~~no such AN~~
 18 **action TO WHICH THIS SUBDIVISION APPLIES** shall **NOT** be maintained
 19 more than 10 years after the time of occupancy of the completed
 20 improvement, use, or acceptance of the improvement.

21 (3) ~~(2) No~~ **A** person ~~may~~ **SHALL NOT** maintain any action to
 22 recover damages based on error or negligence of a state licensed
 23 land surveyor in the preparation of a survey or report more than 6
 24 years after the delivery of the survey or report to the person for
 25 whom it was made or the person's agent.

26 (4) ~~(3)~~ As used in this section: ~~, "state~~

27 (A) **"CONTRACTOR" MEANS AN INDIVIDUAL, CORPORATION,**

1 PARTNERSHIP, OR OTHER BUSINESS ENTITY THAT MAKES AN IMPROVEMENT TO
2 REAL PROPERTY.

3 (B) "STATE licensed architect or professional engineer" or
4 "state licensed land surveyor" means ~~any~~ **AN** individual so licensed,
5 or ~~any~~ **A** corporation, partnership, or other business entity on
6 behalf of whom the state licensed architect, professional engineer,
7 or land surveyor is performing or directing the performance of the
8 architectural, professional engineering, or land surveying service.

9 ~~—— (4) As used in this section, "contractor" means an individual,~~
10 ~~corporation, partnership, or other business entity which makes an~~
11 ~~improvement to real property.~~

12 ~~—— (5) The amendments to subsection (1) added by this amendatory~~
13 ~~act shall not apply to any state licensed architect or professional~~
14 ~~engineer performing or furnishing the design or supervision of~~
15 ~~construction of an improvement if, prior to the effective date of~~
16 ~~this amendatory act, 6 or more years have expired after the time of~~
17 ~~occupancy of the completed improvement, use, or acceptance of the~~
18 ~~improvement.~~

19 ~~—— (6) The changes to subsection (1) made by this 1985 amendatory~~
20 ~~act shall apply only to a cause of action which accrues on or after~~
21 ~~the effective date of this 1985 amendatory act and shall not apply~~
22 ~~to a cause of action which accrues before the effective date of~~
23 ~~this 1985 amendatory act.~~

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.