

ASSEMBLY BILL NO. 373—ASSEMBLYMEN MARVEL, SHERER,
HETTRICK, GEDDES, GOICOECHEA AND GRADY

MARCH 17, 2003

Referred to Committee on Judiciary

SUMMARY—Limits period during which certain actions may be commenced or claims made relating to constructional defects. (BDR 2-734)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to limitation of actions; limiting the period during which certain actions may be commenced or claims may be made relating to constructional defects; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 11 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. No action may be commenced and no claim may be made:***
4 ***(a) More than 5 years after the close of escrow of the initial***
5 ***purchase of the residence after its original construction for***
6 ***damages arising from a constructional defect in a residence***
7 ***relating to:***

8 ***(1) Any paint or stain used for the residence; or***
9 ***(2) Any deterioration of an underlying surface of the***
10 ***residence caused by the paint or stain,***
11 ***unless an express warranty exists for the paint or stain used, and***
12 ***then no such action may be commenced or claim made more than***
13 ***5 years after the expiration of the warranty.***

14 ***(b) More than 4 years after the close of escrow of the initial***
15 ***purchase of the residence after its original construction for***



1 *damages arising from a constructional defect in a residence*
2 *relating to:*

3 *(1) Any plumbing, electrical or sewer system for the*
4 *residence;*

5 *(2) Any exterior pathway, driveway, hardscape, sidewalk,*
6 *sidewalk or patio installed by the original builder of the residence;*
7 *or*

8 *(3) Any untreated steel fence for the residence.*

9 *(c) More than 2 years after the close of escrow of the initial*
10 *purchase of the residence after its original construction for*
11 *damages arising from a constructional defect in a residence*
12 *relating to any landscaping or dryer duct for the residence.*

13 *(d) More than 1 year after the close of escrow of the initial*
14 *purchase of the residence after its original construction for*
15 *damages arising from a constructional defect in a residence*
16 *relating to:*

17 *(1) Any irrigation or drainage system for the residence; or*

18 *(2) Any work relating to the fit or finish of the residence.*

19 *(e) More than 1 year after the close of escrow of the initial*
20 *purchase of the residence after its original construction for*
21 *damages arising from a constructional defect in a residence*
22 *relating to any manufactured product installed in the residence,*
23 *including, without limitation, any:*

24 *(1) Appliance;*

25 *(2) Cabinet;*

26 *(3) Countertop;*

27 *(4) Door;*

28 *(5) Electrical fixture;*

29 *(6) Fireplace;*

30 *(7) Plumbing product or fixture;*

31 *(8) Roof;*

32 *(9) Unit for heating, ventilation or air conditioning; or*

33 *(10) Window,*

34 *unless an express warranty for the manufactured product installed*
35 *exists, and then no such action may be commenced or claim made*
36 *more than 1 year after the expiration of the warranty.*

37 *2. As used in this section, "constructional defect" has the*
38 *meaning ascribed to it in NRS 40.615.*

39 **Sec. 2.** NRS 11.202 is hereby amended to read as follows:

40 11.202 1. ~~[An]~~ *Except as otherwise provided in section 1 of*
41 *this act, an* action may be commenced against the owner, occupier
42 or any person performing or furnishing the design, planning,
43 supervision or observation of construction, or the construction of an
44 improvement to real property at any time after the substantial



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1 completion of such an improvement, for the recovery of damages
2 for:

3 (a) Any deficiency in the design, planning, supervision or
4 observation of construction or the construction of such an
5 improvement which is the result of his willful misconduct or which
6 he fraudulently concealed;

7 (b) Injury to real or personal property caused by any such
8 deficiency; or

9 (c) Injury to or the wrongful death of a person caused by any
10 such deficiency.

11 2. The provisions of this section do not apply in an action
12 brought against:

13 (a) The owner or keeper of any hotel, inn, motel, motor court,
14 boardinghouse or lodginghouse in this state on account of his
15 liability as an innkeeper.

16 (b) Any person on account of a defect in a product.

17 **Sec. 3.** NRS 11.203 is hereby amended to read as follows:

18 11.203 1. Except as otherwise provided in NRS 11.202 and
19 11.206, *and section 1 of this act*, no action may be commenced
20 against the owner, occupier or any person performing or furnishing
21 the design, planning, supervision or observation of construction, or
22 the construction of an improvement to real property more than 10
23 years after the substantial completion of such an improvement, for
24 the recovery of damages for:

25 (a) Any deficiency in the design, planning, supervision or
26 observation of construction or the construction of such an
27 improvement which is known or through the use of reasonable
28 diligence should have been known to him;

29 (b) Injury to real or personal property caused by any such
30 deficiency; or

31 (c) Injury to or the wrongful death of a person caused by any
32 such deficiency.

33 2. Notwithstanding the provisions of NRS 11.190 and
34 subsection 1 of this section, if an injury occurs in the 10th year after
35 the substantial completion of such an improvement, an action for
36 damages for injury to property or person, damages for wrongful
37 death resulting from such injury or damages for breach of contract
38 may be commenced within 2 years after the date of such injury,
39 irrespective of the date of death, but in no event may an action be
40 commenced more than 12 years after the substantial completion of
41 the improvement.

42 3. The provisions of this section do not apply to a claim for
43 indemnity or contribution.



1 **Sec. 4.** NRS 11.204 is hereby amended to read as follows:
2 11.204 1. Except as otherwise provided in NRS 11.202,
3 11.203 and 11.206, *and section 1 of this act*, no action may be
4 commenced against the owner, occupier or any person performing
5 or furnishing the design, planning, supervision or observation of
6 construction, or the construction, of an improvement to real property
7 more than 8 years after the substantial completion of such an
8 improvement, for the recovery of damages for:
9 (a) Any latent deficiency in the design, planning, supervision or
10 observation of construction or the construction of such an
11 improvement;
12 (b) Injury to real or personal property caused by any such
13 deficiency; or
14 (c) Injury to or the wrongful death of a person caused by any
15 such deficiency.
16 2. Notwithstanding the provisions of NRS 11.190 and
17 subsection 1 of this section, if an injury occurs in the eighth year
18 after the substantial completion of such an improvement, an action
19 for damages for injury to property or person, damages for wrongful
20 death resulting from such injury or damages for breach of contract
21 may be commenced within 2 years after the date of such injury,
22 irrespective of the date of death, but in no event may an action be
23 commenced more than 10 years after the substantial completion of
24 the improvement.
25 3. The provisions of this section do not apply to a claim for
26 indemnity or contribution.
27 4. For the purposes of this section, "latent deficiency" means a
28 deficiency which is not apparent by reasonable inspection.
29 **Sec. 5.** NRS 11.205 is hereby amended to read as follows:
30 11.205 1. Except as otherwise provided in NRS 11.202,
31 11.203 and 11.206, *and section 1 of this act*, no action may be
32 commenced against the owner, occupier or any person performing
33 or furnishing the design, planning, supervision or observation of
34 construction, or the construction of an improvement to real property
35 more than 6 years after the substantial completion of such an
36 improvement, for the recovery of damages for:
37 (a) Any patent deficiency in the design, planning, supervision or
38 observation of construction or the construction of such an
39 improvement;
40 (b) Injury to real or personal property caused by any such
41 deficiency; or
42 (c) Injury to or the wrongful death of a person caused by any
43 such deficiency.



1 2. Notwithstanding the provisions of NRS 11.190 and
2 subsection 1 of this section, if an injury occurs in the sixth year after
3 the substantial completion of such an improvement, an action for
4 damages for injury to property or person, damages for wrongful
5 death resulting from such injury or damages for breach of contract
6 may be commenced within 2 years after the date of such injury,
7 irrespective of the date of death, but in no event may an action be
8 commenced more than 8 years after the substantial completion of
9 the improvement.

10 3. The provisions of this section do not apply to a claim for
11 indemnity or contribution.

12 4. For the purposes of this section, "patent deficiency" means a
13 deficiency which is apparent by reasonable inspection.

14 **Sec. 6.** NRS 11.206 is hereby amended to read as follows:

15 11.206 The limitations respectively prescribed by NRS 11.203,
16 11.204 and 11.205 *and section 1 of this act* are not a defense in an
17 action brought against:

18 1. The owner or keeper of any hotel, inn, motel, motor court,
19 boardinghouse or lodginghouse in this state on account of his
20 liability as an innkeeper.

21 2. Any person on account of a defect in a product.

22 **Sec. 7.** NRS 113.135 is hereby amended to read as follows:

23 113.135 1. Upon signing a sales agreement with the initial
24 purchaser of residential property that was not occupied by the
25 purchaser for more than 120 days after substantial completion of the
26 construction of the residential property, the seller shall:

27 (a) Provide to the initial purchaser a copy of NRS 11.202 to
28 11.206, inclusive, and 40.600 to 40.695, inclusive ~~§~~, *and section 1*
29 *of this act*;

30 (b) Notify the initial purchaser of any soil report prepared for the
31 residential property or for the subdivision in which the residential
32 property is located; and

33 (c) If requested in writing by the initial purchaser not later than
34 5 days after signing the sales agreement, provide to the purchaser
35 without cost each report described in paragraph (b) not later than 5
36 days after the seller receives the written request.

37 2. Not later than 20 days after receipt of all reports pursuant to
38 paragraph (c) of subsection 1, the initial purchaser may rescind the
39 sales agreement.

40 3. The initial purchaser may waive his right to rescind the sales
41 agreement pursuant to subsection 2. Such a waiver is effective only
42 if it is made in a written document that is signed by the purchaser.

43 **Sec. 8.** The amendatory provisions of this act apply only to an
44 action for damages arising from a constructional defect in a



- 1 residence for which the close of escrow of the initial purchase of the
- 2 residence occurs on or after October 1, 2003.

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