

Amendment No. 324

Senate Amendment to Senate Bill No. 337

(BDR 2-1149)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold dashed underlining*** is newly added transitory language.

AMI/RRY



Date: 4/13/2009

S.B. No. 337—Revises the statutes of repose relating to certain actions concerning construction defects. (BDR 2-1149)



SENATE BILL NO. 337—COMMITTEE ON JUDICIARY

MARCH 23, 2009

Referred to Committee on Judiciary

SUMMARY—Revises the statutes of repose relating to certain actions concerning construction defects. (BDR 2-1149)

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 civil actions; revising the statutes of repose relating to certain actions concerning construction defects; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally authorizes an action for damages for injury to property or a person or for wrongful death caused by a defect in construction of improvements to real property to be commenced at any time after substantial completion of the improvement if the defect is a result of willful misconduct or was fraudulently concealed. ~~[Section 1 of this bill prohibits such an action from being commenced more than 6 years after the substantial completion of such an improvement rather than authorizing the commencement of such an action at any time after substantial completion of the improvement.]~~ (NRS 11.202)

Section 2 of this bill generally prohibits an action for damages for such injury or wrongful death caused by a known defect in construction of improvements to real property from being commenced more than 3 years after substantial completion of the improvement rather than more than 10 years after substantial completion of the improvement. (NRS 11.203)

Section 3 of this bill generally prohibits an action for damages for such injury or wrongful death caused by a latent defect, a defect that is not apparent by reasonable inspection, in construction of improvements to real property from being commenced more than 4 years after substantial completion of the improvement rather than more than 8 years after substantial completion of the improvement. (NRS 11.204)

Section 4 of this bill generally prohibits an action for damages for such injury or wrongful death caused by a patent defect, a defect that is apparent by reasonable inspection, in construction of improvements to real property from being commenced more than 3 years after substantial completion of the improvement rather than more than 6 years after substantial completion of the improvement. (NRS 11.205)

Sections 2-4 of this bill also eliminate the provisions that authorize an action for damages for such injury or wrongful death caused by a defect in construction of improvements to real property to be commenced within 2 years after the date of such an injury which occurs: (1) in the 10th year after the substantial completion of such an improvement for a known defect; (2) in the eighth year after the substantial completion of such an improvement for a latent defect; and (3) in the sixth year after the substantial completion of such an improvement for a patent defect. (NRS 11.203, 11.204, 11.205)

Section 5 of this bill provides that the decreased periods for bringing an action as set forth in **sections ~~1-4~~ 2-4** of this bill may apply retroactively under certain circumstances. **Section 5** also provides a 1-year grace period for persons to commence an action pursuant to

NRS ~~[11.202 to]~~ 11.203, 11.204 or 11.205, ~~[, inclusive,]~~ if the ~~[actions]~~ action accrued before October 1, 2009.

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

Section 1. ~~[NRS 11.202 is hereby amended to read as follows:~~

~~11.202 1. [An] No action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction of an improvement to real property [at any time] more than 6 years after the substantial completion of such an improvement, for the recovery of damages for:~~

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

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

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

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

~~(a) The owner or keeper of any hotel, inn, motel, motor court, boardinghouse or lodging house in this State on account of his liability as an innkeeper;~~

~~(b) Any person on account of a defect in a product.] (Deleted by amendment.)~~

Sec. 2. NRS 11.203 is hereby amended to read as follows:

11.203 1. Except as otherwise provided in NRS 11.202, 11.204 and 11.206, no action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction of an improvement to real property more than ~~[10]~~ 3 years after the substantial completion of such an improvement, for the recovery of damages for:

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

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

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

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

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

Sec. 3. NRS 11.204 is hereby amended to read as follows:

11.204 1. Except as otherwise provided in NRS 11.202 ~~[, 11.203]~~ and 11.206, no action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction, of an improvement to real property more than ~~[8]~~ 4 years after the substantial completion of such an improvement, for the recovery of damages for:

(a) Any latent deficiency in the design, planning, supervision or observation of construction or the construction of such an improvement;

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

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

~~2. [Notwithstanding the provisions of NRS 11.190 and subsection 1 of this section, if an injury occurs in the eighth year after the substantial completion of such an improvement, an action for damages for injury to property or person, damages for wrongful death resulting from such injury or damages for breach of contract may be commenced within 2 years after the date of such injury, irrespective of the date of death, but in no event may an action be commenced more than 10 years after the substantial completion of the improvement.~~

~~—3.]~~ The provisions of this section do not apply to a claim for indemnity or contribution.

~~[4.]~~ 3. For the purposes of this section, “latent deficiency” means a deficiency which is not apparent by reasonable inspection.

Sec. 4. NRS 11.205 is hereby amended to read as follows:

11.205 1. Except as otherwise provided in NRS 11.202 ~~[, 11.203]~~ and 11.206, no action may be commenced against the owner, occupier or any person performing or furnishing the design, planning, supervision or observation of construction, or the construction of an improvement to real property more than ~~[6]~~ 3 years after the substantial completion of such an improvement, for the recovery of damages for:

(a) Any patent deficiency in the design, planning, supervision or observation of construction or the construction of such an improvement;

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

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

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

~~—3.]~~ The provisions of this section do not apply to a claim for indemnity or contribution.

~~[4.]~~ 3. For the purposes of this section, “patent deficiency” means a deficiency which is apparent by reasonable inspection.

Sec. 5. 1. Except as otherwise provided in subsection 2, the period of limitations on actions set forth in NRS ~~[11.202 to 11.203, 11.204 and 11.205, inclusive,]~~ as amended by sections ~~[1 to 4, inclusive,]~~ 2, 3 and 4 of this act, apply retroactively to actions in which the substantial completion of the improvement to the real property occurred before October 1, 2009.

2. The provisions of subsection 1 do not limit an action:

(a) That accrued before October 1, 2009, and was commenced before October 1, 2010; or

(b) If doing so would constitute an impairment of the obligation of contracts under the Constitution of the United States or the Constitution of the State of Nevada.