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BILL



ANALYSIS

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Senate Bill 77 (Substitute S-2 as reported by the Committee of the Whole)
Sponsor: Senator Tonya Schuitmaker
Committee: Judiciary

CONTENT

The bill would amend Sections 5805 and 5839 of the Revised Judicature Act to establish a two-year statute of limitations on an action against an architects, professional engineer (PE), or professional surveyor, and a three-year statute of limitations on an action against a contractor, to recover for property damage or personal injury.

Sections 5805 and 5839 impose a statute of limitations and a period of repose, respectively, on actions to recover for property damage or personal injury. (A statute of limitations limits the period of time an action may be brought after an injury or damage occurs or is discovered. A period of repose sets a fixed time following an event, other than the occurrence of the injury or damage, after which a person cannot be held liable. When the period of repose expires, an action may not be brought even if the injury or damage has not yet occurred.)

Section 5805 includes a two-year statute of limitations on a malpractice action, as well as a three-year statute of limitations on an action to recover damages for death, injury, or property damage not subject to a different period of limitations. Section 5805 also specifies that the period of limitations on an action against a State-licensed architect, PE, land surveyor, or contractor, based on an improvement to real property, is as provided in Section 5839. Under that section, as a rule, a person may not bring an action arising out of the defective and unsafe condition of an improvement to real property, against an architect, PE, or contractor later than six years after the time of occupancy or acceptance of the completed improvement. The period of repose on an action against a licensed surveyor is six years after delivery of a survey or report.

The bill specifies that an action to recover damages for injuries to people or property against a State-licensed architect or PE or a licensed professional surveyor would be an action charging malpractice. The bill also states that the periods of limitations under Section 5805 would be subject to the applicable period of repose under Section 5839.

The bill would take effect on May 1, 2011.

MCL 600.5805 & 600.5839

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an indeterminate impact on the State and local units of government. The extent to which the bill could preclude an action brought by or against the State or a local unit of government in the future is not determinable.

Date Completed: 2-23-11

Fiscal Analyst: Matthew Grabowski

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Bill Analysis @ www.senate.michigan.gov/sfa

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