

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 840

91ST GENERAL ASSEMBLY

Reported from the Committee on Pensions and General Laws, February 4, 2002, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

3397S.02C

AN ACT

To repeal section 516.097, RSMo, relating to certain tort actions, and to enact in lieu thereof one new section relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 516.097, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 516.097, to read as follows:

516.097. 1. Any action to recover damages for **economic loss**, personal injury, property damage or wrongful death arising out of a defective or unsafe condition of any improvement to real property, including any action for contribution or indemnity for damages sustained on account of the defect or unsafe condition, shall be commenced within ten years of the date on which [any] such improvement is **substantially** completed.

2. This section shall only apply to actions against any person whose sole connection with the improvement is performing or furnishing, in whole or in part, the design, planning or construction, including architectural, engineering or construction services, of the improvement.

3. If any action is commenced against any person specified by subsection 2[, any] **of this section**, such person may, within one year of the date of the filing of such [an] action, notwithstanding the provisions of subsection 1 **of this section**, commence an action or a third party action for contribution or indemnity for damages sustained or claimed in any action because of **economic loss**, personal injury, property damage or wrongful death arising out of a defective or unsafe condition of any improvement to real property.

4. This section shall not apply [if]:

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

(1) **If** an action is barred by another provision of law;

(2) **If** a person conceals any defect or deficiency in the design, planning or construction, including architectural, engineering or construction services, in an improvement for real property, if the defect or deficiency so concealed directly results in the defective or unsafe condition for which the action is brought;

(3) [The] **To limit any** action [is] brought against any owner or possessor of real estate or improvements [thereon] **on such real estate.**

5. The statute of limitation for buildings completed on August 13, 1976, shall begin to run on August 13, 1976, and shall be for the time specified [herein] **in this section.**

6. For the purposes of this section, the term "substantially completed" means that construction has progressed to the point that the building, facility, structure or improvement can be put to the use for which it was intended, even though comparatively minor items remain to be furnished or performed in order to conform to the plans and specifications for the completed building, facility, structure or improvement, which minor items do not prevent occupancy or use of the building, facility, structure or improvement. Certificate of substantial completion issued by a design professional or a temporary certificate of occupancy by a public official shall be evidence of substantial completion.

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