

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 184\*

Short Title: Products Liability Repose.

(Public)

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Sponsors: Representatives Fitch, Barnes, Cunningham, H. Hunter, McLaughlin; Luebke, Bowman, Colton, and Wright.

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Referred to: Judiciary III.

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February 18, 1993

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE STATUTE OF REPOSE FOR PRODUCTS LIABILITY  
3 ACTIONS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 1-50 reads as rewritten:

6 **"§ 1-50. Six years.**

7 Within six years an action –

8 (1) Upon the official bond of a public officer.

9 (2) Against an executor, administrator, collector, or guardian on his  
10 official bond, within six years after the auditing of his final account by  
11 the proper officer, and the filing of the audited account as required by  
12 law.

13 (3) For injury to any incorporeal hereditament.

14 (4) Against a corporation, or the holder of a certificate or duplicate  
15 certificate of stock in the corporation, on account of any dividend,  
16 either a cash or stock dividend, paid or allotted by the corporation to  
17 the holder of the certificate or duplicate certificate of stock in the  
18 corporation.

19 (5) a. No action to recover damages based upon or arising out of the  
20 defective or unsafe condition of an improvement to real property shall  
21 be brought more than six years from the later of the specific last act or  
22 omission of the defendant giving rise to the cause of action or  
23 substantial completion of the improvement.

- 1                   b.     For purposes of this subdivision, an action based upon or  
2                   arising out of the defective or unsafe condition of an  
3                   improvement to real property includes:  
4                   1.     Actions to recover damages for breach of a contract to  
5                   construct or repair an improvement to real property;  
6                   2.     Actions to recover damages for the negligent  
7                   construction or repair of an improvement to real  
8                   property;  
9                   3.     Actions to recover damages for personal injury, death or  
10                  damage to property;  
11                  4.     Actions to recover damages for economic or monetary  
12                  loss;  
13                  5.     Actions in contract or in tort or otherwise;  
14                  6.     Actions for contribution indemnification for damages  
15                  sustained on account of an action described in this  
16                  subdivision;  
17                  7.     Actions against a surety or guarantor of a defendant  
18                  described in this subdivision;  
19                  8.     Actions brought against any current or prior owner of the  
20                  real property or improvement, or against any other  
21                  person having a current or prior interest therein;  
22                  9.     Actions against any person furnishing materials, or  
23                  against any person who develops real property or who  
24                  performs or furnishes the design, plans, specifications,  
25                  surveying, supervision, testing or observation of  
26                  construction, or construction of an improvement to real  
27                  property, or a repair to an improvement to real property.
- 28                  c.     For purposes of this subdivision, 'substantial completion' means  
29                  that degree of completion of a project, improvement or  
30                  specified area or portion thereof (in accordance with the  
31                  contract, as modified by any change orders agreed to by the  
32                  parties) upon attainment of which the owner can use the same  
33                  for the purpose for which it was intended. The date of  
34                  substantial completion may be established by written  
35                  agreement.
- 36                  d.     The limitation prescribed by this subdivision shall not be  
37                  asserted as a defense by any person in actual possession or  
38                  control, as owner, tenant or otherwise, of the improvement at  
39                  the time the defective or unsafe condition constitutes the  
40                  proximate cause of the injury or death for which it is proposed  
41                  to bring an action, in the event such person in actual possession  
42                  or control either knew, or ought reasonably to have known, of  
43                  the defective or unsafe condition.

- 1 e. The limitation prescribed by this subdivision shall not be  
2 asserted as a defense by any person who shall have been guilty  
3 of fraud, or willful or wanton negligence in furnishing  
4 materials, in developing real property, in performing or  
5 furnishing the design, plans, specifications, surveying,  
6 supervision, testing or observation of construction, or  
7 construction of an improvement to real property, or a repair to  
8 an improvement to real property, or to a surety or guarantor of  
9 any of the foregoing persons, or to any person who shall  
10 wrongfully conceal any such fraud, or willful or wanton  
11 negligence.
- 12 f. This subdivision prescribes an outside limitation of six years  
13 from the later of the specific last act or omission or substantial  
14 completion, within which the limitations prescribed by G.S. 1-  
15 52 and 1-53 continue to run. For purposes of the three-year  
16 limitation prescribed by G.S. 1-52, a cause of action based upon  
17 or arising out of the defective or unsafe condition of an  
18 improvement to real property shall not accrue until the injury,  
19 loss, defect or damage becomes apparent or ought reasonably to  
20 have become apparent to the claimant. However, as provided in  
21 this subdivision, no action may be brought more than six years  
22 from the later of the specific last act or omission or substantial  
23 completion.
- 24 g. The limitation prescribed by this subdivision shall apply to the  
25 exclusion of G.S. 1-15(c), G.S. 1-52(16) and G.S. 1-47(2).
- 26 (6) No action for the recovery of damages for personal injury, death or  
27 damage to property based upon or arising out of any alleged defect or  
28 any failure in relation to a product shall be brought more than ~~six~~10  
29 years after the date of initial purchase for use or consumption.
- 30 (7) a. No action against any registered land surveyor as defined in G.S.  
31 89C-3(9) or any person acting under his supervision and control for  
32 physical damage or for economic or monetary loss due to negligence  
33 or a deficiency in the performance of surveying or platting shall be  
34 brought more than 10 years from the last act or omission giving rise to  
35 the cause of action.
- 36 b. For purposes of this subdivision, 'surveying and platting' means  
37 boundary surveys, topographical surveys, surveys of property  
38 lines, and any other measurement or surveying of real property  
39 and the consequent graphic representation thereof.
- 40 c. The limitation prescribed by this subdivision shall apply to the  
41 exclusion of G.S. 1-15(c) and G.S. 1-52(16)."

42 Sec. 2. This act becomes effective October 1, 1993, and applies to causes of  
43 action arising on or after that date; provided, however, this act shall not apply to a cause

- 1 of action involving a product initially purchased for use or consumption prior to
- 2 October 1, 1987.