

CHAPTER 76

AN ACT concerning limitation of liability for surveys under certain circumstances, amending P.L.1967, c.59 and supplementing chapter 14 of Title 2A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1967, c.59 (C.2A:14-1.1) is amended to read as follows:

C.2A:14-1.1 Damages for injury from unsafe condition of improvement to real property; statute of limitations; exceptions; terms defined.

1. a. No action, whether in contract, in tort, or otherwise, to recover damages for any deficiency in the design, planning, surveying, supervision or construction of an improvement to real property, or for any injury to property, real or personal, or for an injury to the person, or for bodily injury or wrongful death, arising out of the defective and unsafe condition of an improvement to real property, nor any action for contribution or indemnity for damages sustained on account of such injury, shall be brought against any person performing or furnishing the design, planning, surveying, supervision of construction or construction of such improvement to real property, more than 10 years after the performance or furnishing of such services and construction. This limitation shall serve as a bar to all such actions, both governmental and private, but shall not apply to actions against any person in actual possession and control as owner, tenant, or otherwise, of the improvement at the time the defective and unsafe condition of such improvement constitutes the proximate cause of the injury or damage for which the action is brought.

b. This section shall not bar an action by a governmental unit:

(1) on a written warranty, guaranty or other contract that expressly provides for a longer effective period;

(2) based on willful misconduct, gross negligence or fraudulent concealment in connection with performing or furnishing the design, planning, supervision or construction of an improvement to real property;

(3) under any environmental remediation law or pursuant to any contract entered into by a governmental unit in carrying out its responsibilities under any environmental remediation law; or

(4) Pursuant to any contract for application, enclosure, removal or encapsulation of asbestos.

c. As used in this section:

"Asbestos" shall have the meaning as defined in subsection a. of section 3 of P.L.1984, c.173 (C.34:5A-34) and any regulations adopted pursuant thereto.

"Environmental remediation law" means chapter 10B of Title 58 of the Revised Statutes (C.58:10B-1 et seq.) and any regulations adopted pursuant thereto.

"Governmental" means the State, its political subdivisions, any office, department, division, bureau, board, commission or public authority or public agency of the State or one of its political subdivisions, including but not limited to, a county or a municipality and any board, commission, committee, authority or agency which is not a State board, commission, committee, authority or agency.

C.2A:14-1.3 Prohibition of certain actions after 10 years.

2. No action whether in contract, in tort or otherwise to recover damages for any deficiency in a survey of real property performed under contract for any purpose other than for any improvement to real property shall be taken against any person performing or furnishing such survey more than 10 years after the performance or furnishing of such survey.

C.2A:14-1.4 Inapplicability of time limitation for adverse possession case.

3. The 10-year time period limitation on actions for the statute of repose set forth in section 1 of P.L.1967, c.59 (C.2A:14-1.1) for surveying shall not be applicable to cases of adverse possession. In adverse possession cases the statute of repose for surveying shall be coterminous with the time period required for the adverse possession.

4. This act shall take effect immediately.

Approved May 4, 2001.