

STATE OF NEW YORK

8213

IN SENATE

January 12, 2024

Introduced by Sens. COONEY, GRIFFO -- read twice and ordered printed,
and when printed to be committed to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to providing a statute of limitations for certain actions against professional engineers, architects, landscape architects, land surveyors and construction contractors and to repeal section 214-d, subdivision (h) of rule 3211 and subdivision (i) of rule 3212 of the civil practice law and rules relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Statement of findings and purpose. The legislature finds
2 that (a) the open-ended and continuing liability imposed upon members of
3 the design professions and construction contractors, due to alleged
4 deficiencies relating to improvements to real property, has resulted in
5 an unfair burden on such professionals and a general increase in the
6 cost of both public and private improvements to real property, (b) the
7 cost of maintaining adequate insurance coverage is so expensive that a
8 significant number of design professionals and construction contractors
9 are forced to forego insurance coverage altogether to the detriment of
10 the public's safety and welfare. The legislature further finds that the
11 best designed and constructed improvement is dependent upon proper main-
12 tenance to preserve its integrity and safety and it is thus of impor-
13 tance to the public safety and welfare to ensure that an owner maintains
14 and repairs that which is the property of the owner. The legislature
15 therefore finds that it is necessary and desirable to establish a time
16 limit after which tort claims for personal injury or wrongful death may
17 not be asserted against such professionals and contractors. That statute
18 of repose set forth herein, with a claim accruing on the date that the
19 improvement was completed, will preserve the liability of the profes-
20 sional and contractor during a period in which the defects, if any, will
21 be revealed, and therefore will establish an appropriate limit on
22 liability, while affording adequate protection to the public.

23 § 2. Section 214-d of the civil practice law and rules is REPEALED and
24 a new section 214-d is added to read as follows:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD04450-01-3

1 § 214-d. Limitations on certain actions against professional engi-
2 neers, architects, landscape architects, land surveyors or construction
3 contractors. 1. Except as otherwise provided in subdivision two of this
4 section, no action to recover damages for injury to the person or for
5 wrongful death or for damage to property nor any action for contribution
6 or indemnity for damages sustained on account of such injury or wrongful
7 death or damage to property arising from any defect in the structure or
8 improvement resulting from the design, planning, or supervision of
9 construction of an improvement to real property shall be brought against
10 a professional engineer, architect, landscape architect, land surveyor
11 or construction contractor more than ten years after the completion of
12 such improvement.

13 2. If, by reason of such defect, an injury to the person or an injury
14 causing wrongful death or damages to property occurs during the tenth
15 year after completion, an action to recover damages for such injury or
16 wrongful death or damage to property may be brought within one year
17 after the date on which such injury occurred, but in no event may such
18 action be brought more than eleven years after the completion of the
19 improvement.

20 3. The limitations prescribed by this section shall not apply to
21 actions brought by one in contractual or professional privity with the
22 engineer, architect, landscape architect, land surveyor or construction
23 contractor and shall not be asserted by way of defense by any person in
24 actual possession or control as owner, tenant, or otherwise, of such an
25 improvement at the time any defect in such improvement constitutes the
26 proximate cause of the injury or death for which it is proposed to bring
27 an action.

28 4. For purposes of this section an improvement shall be deemed to be
29 "completed" (a) when, after the improvement has been started, a perma-
30 nent certificate of occupancy is issued by the municipality in which the
31 improvement is situated, if such is required or is actually issued
32 pursuant to law or regulation; or (b) if a public improvement, upon the
33 acceptance of the improvement by the owner, if a certificate of occupan-
34 cy is not required and has not been issued or (c) on the earlier of this
35 following dates, if the provisions of paragraphs (a) and (b) of this
36 subdivision do not apply (i) four months prior to the last day on which
37 mechanic's lien, resulting from work performed or materials furnished
38 with respect to such improvement, can be filed; or (ii) upon the owner's
39 final payment for services rendered or materials supplied with respect
40 to such improvement.

41 5. An architect, engineer, landscape architect, or land surveyor shall
42 mean a person licensed or registered as an architect, engineer, land-
43 scape architect or land surveyor, pursuant to the provisions of the
44 education law or any partnership or corporation lawfully performing
45 architectural, engineering, landscape architectural or surveying
46 services.

47 § 3. Subdivisions 4 and 5 of section 214 of the civil practice law and
48 rules, subdivision 4 as separately amended by chapters 485 and 682 of
49 the laws of 1986, subdivision 5 as amended by chapter 729 of the laws of
50 2021, are amended to read as follows:

51 4. an action to recover damages for an injury to property except as
52 provided in [~~section~~] sections 214-c and 214-d;

53 5. an action to recover damages for a personal injury except as
54 provided in sections 214-b, 214-c, 214-d, 214-i and 215;

55 § 4. Subdivision (h) of rule 3211 and subdivision (i) of rule 3212 of
56 the civil practice law and rules are REPEALED.

1 § 5. Nothing contained in this act shall be construed as affecting
2 rights, obligations or duties arising under any contract entered into or
3 any cause of action resulting from an injury which occurred prior to the
4 effective date of this act.

5 § 6. This act shall take effect on the first of January next succeed-
6 ing the date on which it shall have become a law and shall apply to all
7 actions commenced on or after its effective date.