ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4903

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 12, 2021

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 4903.

This bill would adjust the statute of limitations on damage claims for construction defects in common interest communities. Specifically, in a claim for damages resulting from a construction defect in a condominium, cooperative, or other planned real estate development, the bill as amended would require the statute of limitations to begin running at the time an election is held and the owners comprise a majority of the board. As introduced, the bill had provided that the statute of limitations would begin running on the date of the transition of the board from developer control.

The statute of limitations for filing a claim for damages resulting from a construction defect currently runs for six years from the date of a project's substantial completion, so long as the defect does not result in an unsafe condition. A developer retains the ability to control the majority of a common interest community's executive board until the transition from developer control, which occurs 60 days after the conveyance of 75 percent of the units in the community. The transition from developer control and the assumption of control by the unit owners pursuant to an election can occur years after the project's substantial completion, leaving little or no time within the six-year window for the owner-controlled board to decide to file a claim against a developer, even when legitimate defects exist. This bill as amended would provide the owner-controlled board more time to file a construction defect claim by requiring the statute of limitations to begin running when an election is held pursuant to law and the owners comprise a majority of the board.

These amendments make this bill identical to Senate, No. 396 (1R), which was also considered and released by the committee on this date.

COMMITTEE AMENDMENTS:

Amend subsection c. of section 1 of the bill (N.J.S.2A:14-1) to provide that the period of time for filing of a claim shall be tolled until an election is held and the owners comprise a majority of the board.