

SENATE, No. 396

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

SYNOPSIS

Adjusts statute of limitations on damage claim for construction defect in common interest community.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning construction defects in common interest
2 communities and amending N.J.S.2A:14-1.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. N.J.S.2A:14-1 is amended to read as follows:

8 2A:14-1. a. Every action at law for trespass to real property, for
9 any tortious injury to real or personal property, for taking,
10 detaining, or converting personal property, for replevin of goods or
11 chattels, for any tortious injury to the rights of another not stated in
12 **【sections 2A:14-2 and 2A:14-3 of this Title】** N.J.S.2A:14-2 and
13 N.J.S.2A:14-3, or for recovery upon a contractual claim or liability,
14 express or implied, not under seal, or upon an account other than
15 one which concerns the trade or merchandise between merchant and
16 merchant, their factors, agents and servants, shall be commenced
17 within 6 years next after the cause of any such action shall have
18 accrued.

19 b. This section shall not apply to any action for breach of any
20 contract for sale governed by **【section 12A:2-725 of the New Jersey**
21 **Statutes】** N.J.S.12A:2-725.

22 c. The period of time for the filing of a claim by a
23 condominium association, cooperative corporation or other planned
24 real estate development association against a developer or any
25 person acting through, on behalf of or at the behest of the developer
26 under subsection a. of this section, shall be tolled until the date of
27 the transition from developer control, as established pursuant to
28 paragraph (3) of subsection a. of section 5 of P.L.1993, c.30
29 (C.45:22A-47), or subsection d. of section 2 of P.L.1979, c.157
30 (C.46:8B-12.1). Any cause of action involving a condominium,
31 cooperative or other planned real estate development under the
32 provisions of subsection a. of this section that has not been subject
33 to a final judgment dismissing the claim as of the effective date of
34 P.L. , c. (pending before the Legislature as this bill) shall be
35 subject to the terms of this subsection.

36 (cf: P.L.1961, c.121, s.1)

37
38 2. This act shall take effect immediately.

41 STATEMENT

42
43 This bill would adjust the statute of limitations on damage claims
44 for construction defects in common interest communities.
45 Specifically, in a claim for damages resulting from a construction

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 defect in a condominium, cooperative, or other planned real estate
2 development, the bill would require the statute of limitations to
3 begin running at the time of the transition from developer control,
4 instead of substantial completion of the project.

5 The statute of limitations for filing a claim for damages resulting
6 from a construction defect currently runs for six years from the date
7 of a project's substantial completion, so long as the defect does not
8 result in an unsafe condition. A developer retains the ability to
9 control the majority of a common interest community's executive
10 board until the transition, which occurs sixty days after the
11 conveyance of 75 percent of the units in the community. This
12 transition from developer control can occur years after the project's
13 substantial completion, leaving little or no time within the six-year
14 window for the owner-controlled board to decide to file a claim
15 against a developer, even when legitimate defects exist. This bill
16 intends to allow the owner-controlled board more time to file a
17 construction defect claim by requiring the statute of limitations to
18 begin running upon transition of developer control.