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SENATE BILL 646

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

L. SKIP VERNON

AN ACT

RELATING TO LIMITATIONS OF ACTIONS; AMENDING A SECTION OF THE
NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 37-1-27 NMSA 1978 (being Laws 1967,
Chapter 193, Section 1) is amended to read:

"37-1-27. CONSTRUCTION PROJECTS--LIMITATION ON ACTIONS FOR
DEFECTIVE OR UNSAFE CONDITIONS. --

A. No action to recover damages for any injury to
property, real or personal, or for injury to the person or for
bodily injury or wrongful death arising out of the defective or
unsafe condition of a physical improvement to real property [~~nor~~
~~any~~] and no action for contribution or indemnity for damages so
sustained against any person performing or furnishing the
construction or the design, planning, supervision, inspection or

Underscored material = new
[bracketed material] = delete

Underscored material = new
[bracketed material] = delete

1 administration of construction of ~~[such]~~ the improvement to real
2 property and on account of such activity shall be brought after
3 ~~[ten]~~ six years from the date of substantial completion of
4 ~~[such]~~ the improvement. If the cause of action arises within
5 the six-year limitation imposed under this section, the
6 limitation shall not extinguish the cause of action until one
7 year after the date on which the cause of action arose;
8 provided, this limitation shall not apply to any action based on
9 a contract, warranty or guarantee ~~[which]~~ that contains express
10 written terms inconsistent ~~[herewith]~~ with the provisions of
11 this section.

12 B. As used in this section, the "date of substantial
13 completion" ~~[shall mean]~~ means the date when ~~[construction is~~
14 ~~sufficiently completed so that the owner can occupy or use the~~
15 ~~improvement for the purpose for which it was intended or the~~
16 ~~date on which the owner does so occupy or use the improvement or~~
17 ~~the date established by the contractor as the date of substan-~~
18 ~~tial completion, whichever date occurs last]~~ any of the
19 following first occurs:

- 20 (1) the owner or occupant uses the improvement;
21 (2) the improvement is available for use by the
22 owner or occupant;
23 (3) there is a final inspection of the
24 improvement by the governmental entity that issued the permit
25 for the improvement; or

Underscored material = new
~~[bracketed material] = delete~~

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(4) one year has passed after cessation of work
on the improvement. "

- 3 -

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

SB 646/a

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February 28, 1997

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

SENATE BILL 646

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 2, line 5, after the word "section" insert "or if
this section extinguishes an existing cause of action under prior
law".

2. On page 2, line 13, strike the beginning bracket and line-
through, strike all of the line-through on lines 14 and 15 and on
line 16, strike the line-through up to the second occurrence of
"or" and insert a beginning bracket.

3. On page 2, line 18, after the closing bracket, strike the
remainder of the line, strike all of lines 19 through 25 and on
page 3, strike lines 1 and 2 and insert in lieu thereof "
whichever date occurs first."

Respectfully submitted,

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Fernando R. Macias, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: None

Excused: Lopez, Sanchez, McSorley

Absent: None

S0646JU1

Underscored material = new
[bracketed material] = delete