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SENATE BILL 447

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

L. Skip Vernon

AN ACT

RELATING TO CONSTRUCTION PROJECTS; REVISING THE TIME PERIOD FOR A LIMITATION ON ACTIONS FOR DEFECTIVE OR UNSAFE CONDITIONS; 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

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1 furnishing the construction or the design, planning,
2 supervision, inspection or administration of construction of
3 ~~[such]~~ the improvement to real property and on account of such
4 activity shall be brought after ~~[ten]~~ six years from the date
5 of substantial completion of ~~[such]~~ the improvement.

6 ~~[Provided, this limitation]~~ If the cause of action arises
7 within the six-year limitation imposed pursuant to this
8 section, the limitation shall not extinguish the cause of
9 action until one year after the date after the cause of action
10 arose. The six-year limitation imposed pursuant to this
11 section shall not apply to any action based on a contract,
12 warranty or guarantee which contains express written terms
13 inconsistent [herewith] with the provisions of this section.

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

- 22 (1) the owner or occupant uses the
- 23 improvement;
- 24 (2) the improvement is available for use by
- 25 the owner or occupant;

1 (3) there is a final inspection of the
2 improvement by the governmental entity that issued the permit
3 for the improvement; or
4 (4) one year has passed after cessation of
5 work on the improvement. "

6 Section 2. EFFECTIVE DATE. --The effective date of the
7 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3 SB 447/a

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6 March 10, 1999

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8 Mr. President:

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10 Your JUDICIARY COMMITTEE, to whom has been referred

11
12 SENATE BILL 447

13
14 has had it under consideration and reports same WITHOUT

15
16 RECOMMENDATION, amended as follows:

17
18 1. On page 2, between lines 13 and 14, insert the following
19 new subsection:

20
21 "B. Notwithstanding the provisions of Subsection A of this
22 section, no action to recover damages for any injury to a residential
23 home, a residence or an apartment house that accommodates not more
24 than four family units, no action to recover damages for injury to a

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FIRST SESSION, 1999

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person or for bodily injury or wrongful death that arises out of the defective or unsafe condition of a physical improvement to a residential home, a residence or an apartment house that accommodates not more than four family units, and no action for contribution or indemnity for damages so sustained, against any person who performs or furnishes the construction or the design, planning, supervision, inspection or administration of construction of such improvement to a residential home, residence or apartment house that accommodates not more than four family units, and on account of such activity, shall be brought after ten years from the date of substantial completion of such improvement."

2. Reletter the succeeding subsection accordingly.,

and thence referred to the PUBLIC AFFAIRS COMMITTEE.

FORTY- FOURTH LEGI SLATURE
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Respectfully submitted,

Michael S. Sanchez, Chair man

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 4 For 2 Against

Yes: 4

No: Lopez, McSorley

Excused: Aragon, Tsosie

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Absent: None

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