GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2001

H HOUSE BILL 1325

Short Title: Products Liability/Extend Statute of Repose.						(Public)	
Sponsors:	Represe Wainwr	entatives Blueright.	e; Alexander,	Barefoot,	Haire,	Jeffus,	and
Referred to: Ways and Means.							
April 12, 2001							
A BILL TO BE ENTITLED AN ACT TO EXTEND THE STATUTE OF REPOSE FOR ACTIONS BASED ON DEFECTS OR FAILURES IN RELATION TO PRODUCTS. The General Assembly of North Carolina enacts: SECTION 1. G.S. 1-50(a) reads as rewritten: "(a) Within six years an action —							
	(1) Repo	Repealed by Session Laws 1997-297, s. 1. Against an executor, administrator, collector, or guardian on his official bond, within six years after the auditing of his final account by the proper officer, and the filing of the audited account as required by					
	(3) For i (4) Aga certi eithe the						
	(5) a.	No action of defective of property shape the specific	o recover damager unsafe condituall be brought melast act or omission of action or ont.	tion of an ore than six sion of the d	improve years fro lefendant	ement to om the la	real ater of rise to
	b.		of the defect			_	

improvement to real property includes:

1 1. Actions to recover damages for breach of a contract to construct or repair an improvement to real property; 2 Actions to recover damages for the negligent 3 2. construction or repair of an improvement to real 4 5 property; Actions to recover damages for personal injury, death or 6 3. 7 damage to property: Actions to recover damages for economic or monetary 8 4. 9 10 5. Actions in contract or in tort or otherwise; 11 6. Actions for contribution indemnification for damages sustained on account of an action described in this 12 13 subdivision: Actions against a surety or guarantor of a defendant 14 7. described in this subdivision; 15 Actions brought against any current or prior owner of the 16 8. real property or improvement, or against any other 17 person having a current or prior interest therein; 18 Actions against any person furnishing materials, or 19 9. against any person who develops real property or who 20 performs or furnishes the design, plans, specifications, 21 surveying, supervision, testing or observation of 22 construction, or construction of an improvement to real 23 property, or a repair to an improvement to real property. 24 For purposes of this subdivision, "substantial completion" 25 c. means that degree of completion of a project, improvement or 26 specified area or portion thereof (in accordance with the 27 contract, as modified by any change orders agreed to by the 28 parties) upon attainment of which the owner can use the same 29 for the purpose for which it was intended. The date of 30 31 substantial completion may be established by written 32 agreement. 33 The limitation prescribed by this subdivision shall not be d. asserted as a defense by any person in actual possession or 34 control, as owner, tenant or otherwise, of the improvement at 35 the time the defective or unsafe condition constitutes the 36 proximate cause of the injury or death for which it is proposed 37 to bring an action, in the event such person in actual possession 38 or control either knew, or ought reasonably to have known, of 39 the defective or unsafe condition. 40 The limitation prescribed by this subdivision shall not be 41 e. asserted as a defense by any person who shall have been guilty 42 of fraud, or willful or wanton negligence in furnishing 43 materials, in developing real property, in performing or 44

- 1 furnishing the design, plans, specifications, surveying, 2 supervision, testing or observation of construction, or 3 construction of an improvement to real property, or a repair to an improvement to real property, or to a surety or guarantor of 4 any of the foregoing persons, or to any person who shall 5 6 wrongfully conceal any such fraud, or willful or wanton 7 negligence. 8 f. This subdivision prescribes an outside limitation of six years 9 from the later of the specific last act or omission or substantial completion, within which the limitations prescribed by G.S. 10 11 1-52 and 1-53 continue to run. For purposes of the three-year 12 limitation prescribed by G.S. 1-52, a cause of action based upon 13 or arising out of the defective or unsafe condition of an 14 improvement to real property shall not accrue until the injury, 15 loss, defect or damage becomes apparent or ought reasonably to have become apparent to the claimant. However, as provided in 16 17 this subdivision, no action may be brought more than six years 18 from the later of the specific last act or omission or substantial 19 completion. 20 The limitation prescribed by this subdivision shall apply to the g. exclusion of G.S. 1-15(c), G.S. 1-52(16) and G.S. 1-47(2). 21 No action for the recovery of damages for personal injury, death or 22 (6) 23 damage to property based upon or arising out of any alleged defect or 24 any failure in relation to a product shall be brought more than six years 25 after the date of initial purchase for use or consumption. 26 Recodified as G.S. 1-47(6) by Session Laws 1995 (Regular Session, (7) 27 1996), c. 742, s. 1." 28
 - **SECTION 2.** Article 5 of Chapter 1 of the General Statutes is amended by adding a new section to read:

"§ 1-46.1. Fifteen years.

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No action for the recovery of damages for personal injury, death, or damage to property based upon or arising out of any alleged defect or any failure in relation to a product shall be brought more than 15 years after the date of initial purchase for use or consumption."

SECTION 3. This act is effective when it becomes law and applies to actions arising on or after that date.