

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

H.B. 870  
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH50086-LR-68F

Short Title: Civil Procedure/Limitations/Land Surveyors. (Public)

Sponsors: Representatives Arp, Torbett, Brody, and Richardson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO CLARIFY STATUTES OF LIMITATION AND REPOSE APPLICABLE TO  
3 ACTIONS BROUGHT AGAINST PROFESSIONAL LAND SURVEYORS.

4 Whereas, the General Assembly has provided through the enactment of G.S. 1-47(6)  
5 and G.S. 1-52(18) two limitations periods for actions brought against a registered land surveyor  
6 as defined in G.S. 89C-3(9) or a person acting under the surveyor's supervision and control for  
7 physical damage or for economic or monetary loss due to negligence or a deficiency in the  
8 performance of surveying or platting; and

9 Whereas, it was the intent of the General Assembly to establish a 3-year statute of  
10 limitation under G.S. 1-52(18) and a 10-year statute of repose under G.S. 1-47(6) for such  
11 actions; and

12 Whereas, the North Carolina courts have held that the limitations period under  
13 G.S. 1-47(6) is more specific and provides a longer period of time than the limitations period  
14 under G.S. 1-52(18); and, consequently, that the 10-year limitation under G.S. 1-47(6) applies to  
15 the exclusion of the 3-year limitation under G.S. 1-52(18); and

16 Whereas, such ruling by the North Carolina courts have rendered the 3-year limitation  
17 under G.S. 1-52(18) a nullity, contrary to the intent of the General Assembly, and

18 Whereas, the General Assembly wishes to amend the provisions of G.S. 1-47 and  
19 G.S. 1-52 to establish a 3-year statute of limitation and 7-year statute of repose for such causes  
20 of action; Now, therefore,

21 The General Assembly of North Carolina enacts:

22 SECTION 1. G.S. 1-47 reads as rewritten:

23 "§ 1-47. Ten years.

24 Within ten years an action –

25 ...

26 (6) a. ~~Against any registered land surveyor as defined in G.S. 89C-3(9) or any~~  
27 ~~person acting under his supervision and control for physical damage or for~~  
28 ~~economic or monetary loss due to negligence or a deficiency in the~~  
29 ~~performance of surveying or platting, within 10 years after the last act or~~  
30 ~~omission giving rise to the cause of action.~~

31 b. ~~For purposes of this subdivision, "surveying and platting" means boundary~~  
32 ~~surveys, topographical surveys, surveys of property lines, and any other~~  
33 ~~measurement or surveying of real property and the consequent graphic~~  
34 ~~representation thereof.~~

35 c. ~~The limitation prescribed by this subdivision shall apply to the exclusion of~~  
36 ~~G.S. 1-15(e) and G.S. 1-52(16).~~



1           ...."

2           **SECTION 2.** G.S. 1-52(18) reads as rewritten:

3   "**§ 1-52. Three years.**

4       Within three years an action –

5           ...

6       (18)   Against any ~~registered professional~~ land surveyor as defined in G.S. 89C-3(9)  
7           or any person acting under ~~his~~ the surveyor's supervision and control for  
8           physical damage or economic or monetary loss due to negligence or a  
9           deficiency in the performance of surveying or ~~plating as defined in~~  
10          G.S. 1-47(6) platting. A cause of action for physical damage under this  
11          subdivision shall be deemed to accrue at the time of the occurrence of the  
12          physical damage giving rise to the cause of action; provided that, all other  
13          causes of action under this subdivision shall commence within seven years  
14          from the specific last act of the professional land surveyor or any person acting  
15          under the surveyor's supervision and control giving rise to the cause of action.  
16          For purposes of this subdivision, "surveying and platting" means boundary  
17          surveys, topographical surveys, surveys of property lines, and any other  
18          measurement or surveying of real property and the consequent graphic  
19          representation thereof.

20          ...."

21       **SECTION 3.** If any section or provision of this act is declared unconstitutional or  
22       invalid by the courts, it does not affect the validity of this act as a whole or any part other than  
23       the part declared to be unconstitutional or invalid.

24       **SECTION 4.** This act is effective when it becomes law and applies to actions filed,  
25       arising, or pending on or after that date. For purposes of this section, an action is pending for a  
26       plaintiff if there has been no final disposition with prejudice and mandate issued against that  
27       plaintiff issued by the highest court of competent jurisdiction where the claim was timely filed  
28       or appealed as to all the plaintiff's claims for relief to which this act otherwise applies.