

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 1434

February 26, 2007

Authored by Atkins

The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

1.1 A bill for an act
1.2 relating to civil law; preserving the right of building contractors to bring an
1.3 action for contribution or indemnity under certain circumstances; amending
1.4 Minnesota Statutes 2006, section 541.051.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2006, section 541.051, is amended to read:

1.7 **541.051 LIMITATION OF ACTION FOR DAMAGES BASED ON SERVICES**
1.8 **OR CONSTRUCTION TO IMPROVE REAL PROPERTY.**

1.9 Subdivision 1. **Limitation; service or construction of real property;**
1.10 **improvements.** (a) Except where fraud is involved, no action by any person in contract,
1.11 tort, or otherwise to recover damages for any injury to property, real or personal, or for
1.12 bodily injury or wrongful death, arising out of the defective and unsafe condition of an
1.13 improvement to real property, ~~nor any action for contribution or indemnity for damages~~
1.14 ~~sustained on account of the injury,~~ shall be brought against any person performing or
1.15 furnishing the design, planning, supervision, materials, or observation of construction
1.16 or construction of the improvement to real property or against the owner of the real
1.17 property more than two years after discovery of the injury ~~or, in the case of an action for~~
1.18 ~~contribution or indemnity, accrual of the cause of action,~~ nor, in any event shall such a
1.19 cause of action accrue more than ten years after substantial completion of the construction.
1.20 Date of substantial completion shall be determined by the date when construction is
1.21 sufficiently completed so that the owner or the owner's representative can occupy or use
1.22 the improvement for the intended purpose.

1.23 (b) Notwithstanding paragraph (a), an action for contribution or indemnity arising
1.24 out of the defective and unsafe condition of an improvement to real property may be

2.1 brought no later than two years after the cause of action for contribution or indemnity has
 2.2 accrued, regardless of whether it accrued before or after the ten-year period referenced in
 2.3 paragraph (a).

2.4 (c) For purposes of paragraph (a), a cause of action accrues upon discovery of the
 2.5 injury or, in the case of an action for contribution or indemnity under paragraph (b),
 2.6 upon payment of a final judgment, arbitration award, or settlement arising out of the
 2.7 defective and unsafe condition.

2.8 ~~(c)~~ (d) Nothing in this section shall apply to actions for damages resulting from
 2.9 negligence in the maintenance, operation or inspection of the real property improvement
 2.10 against the owner or other person in possession.

2.11 ~~(d)~~ (e) The limitations prescribed in this section do not apply to the manufacturer or
 2.12 supplier of any equipment or machinery installed upon real property.

2.13 Subd. 2. **Action allowed; limitation.** Notwithstanding the provisions of subdivision
 2.14 1, paragraph (a), in the case of ~~an~~ a cause of action which accrues during the ninth or tenth
 2.15 year after substantial completion of the construction, an action to recover damages may be
 2.16 brought within two years after the date on which the cause of action accrued, but in no
 2.17 event may such an action be brought more than 12 years after substantial completion of
 2.18 the construction. Nothing in this subdivision shall limit the time for bringing an action for
 2.19 contribution or indemnity.

2.20 Subd. 3. **Not construed.** Nothing in this section shall be construed as extending the
 2.21 period prescribed by the laws of this state for the bringing of any action.

2.22 Subd. 4. **Applicability.** For the purposes of actions based on breach of the statutory
 2.23 warranties set forth in section 327A.02, or to actions based on breach of an express written
 2.24 warranty, such actions shall be brought within two years of the discovery of the breach. In
 2.25 the case of an action under section 327A.05, which accrues during the ninth or tenth year
 2.26 after the warranty date, as defined in section 327A.01, subdivision 8, an action may be
 2.27 brought within two years of the discovery of the breach, but in no event may an action
 2.28 under section 327A.05 be brought more than 12 years after the effective warranty date. An
 2.29 action for contribution or indemnity related to actions described in this subdivision may be
 2.30 brought no later than two years after the cause of action for contribution or indemnity has
 2.31 accrued, based upon the time of accrual provided in subdivision 1, paragraph (c).

2.32 **EFFECTIVE DATE.** This section is effective the day following final enactment
 2.33 and applies to all actions pending on or commenced on or after that date.