

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
First Regular Session  
2019

# HOUSE BILL 2240

AN ACT

AMENDING SECTION 12-552, ARIZONA REVISED STATUTES; RELATING TO LIMITATIONS OF ACTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-552, Arizona Revised Statutes, is amended to  
3 read:

4 12-552. Actions involving development of real property  
5 design, engineering and construction of  
6 improvements

7 A. Notwithstanding any other statute, ~~no~~ AN action or arbitration  
8 based in contract may NOT be instituted or maintained against a person who  
9 develops or develops and sells real property, or performs or furnishes the  
10 design, specifications, surveying, planning, supervision, testing,  
11 construction or observation of construction of an improvement to real  
12 property more than eight years after substantial completion of the  
13 improvement to real property.

14 B. NOTWITHSTANDING ANY OTHER STATUTE, A MUNICIPALITY OR A COUNTY  
15 MAY NOT INSTITUTE OR MAINTAIN AN ACTION OR ARBITRATION AGAINST A PERSON  
16 WHO DEVELOPS OR DEVELOPS AND SELLS REAL PROPERTY OR PERFORMS OR FURNISHES  
17 THE DESIGN, SPECIFICATIONS, SURVEYING, PLANNING, SUPERVISION, TESTING,  
18 CONSTRUCTION OR OBSERVATION OF CONSTRUCTION OF AN IMPROVEMENT TO REAL  
19 PROPERTY THAT IS DEDICATED TO THE MUNICIPALITY OR COUNTY MORE THAN EIGHT  
20 YEARS AFTER THE IMPROVEMENT TO REAL PROPERTY HAS BEEN ACCEPTED BY THE  
21 MUNICIPALITY OR COUNTY FOR OWNERSHIP, OPERATION AND MAINTENANCE IF THE  
22 ACTION OR ARBITRATION IS BASED ON EITHER:

23 1. A MUNICIPAL OR COUNTY CODE, ORDINANCE OR OTHER LEGAL  
24 REQUIREMENT.

25 2. A PERMIT THAT IS REQUIRED AS A CONDITION OF DEVELOPMENT.

26 C. THE LIMITATIONS OF SUBSECTION B OF THIS SECTION DO NOT APPLY TO  
27 AN ACTION OR ARBITRATION THAT IS BASED ON A CLAIM OF A WILFUL, RECKLESS OR  
28 CONCEALED VIOLATION OF A MUNICIPAL OR COUNTY REQUIREMENT.

29 D. SUBSECTION B OF THIS SECTION DOES NOT LIMIT ANY IMMUNITY OR  
30 DEFENSE THAT IS AVAILABLE TO A MUNICIPALITY OR COUNTY PURSUANT TO CHAPTER  
31 7, ARTICLE 2 OF THIS TITLE.

32 ~~B.~~ E. Notwithstanding subsection A OR B of this section, in the  
33 case of injury to real property or an improvement to real property, if the  
34 injury occurred during the eighth year after the substantial  
35 completion, ~~or~~, or, in the case of a latent defect, was not discovered until  
36 the eighth year after substantial completion, an action to recover damages  
37 for injury to the real property may be brought within one year after the  
38 date on which the injury to real property or an improvement to real  
39 property occurred or a latent defect was discovered, but ~~in no event may~~  
40 an action MAY NOT be brought more than nine years after the substantial  
41 completion of the improvement.

42 ~~C.~~ F. The limitations in subsections A, ~~and~~ B AND D of this  
43 section include any action based on implied warranty arising out of the  
44 contract or the construction, including implied warranties of  
45 habitability, fitness or workmanship.

1           ~~D.~~ G. ~~Nothing in~~ This section ~~applies~~ DOES NOT APPLY to actions  
2 for personal injury or death ~~nor shall this section operate to~~ OR shorten  
3 the period of warranty provided in an express written warranty.  
4           ~~E.~~ H. For the purposes of subsections A, ~~B and C~~ D AND E of this  
5 section, an improvement to real property is considered substantially  
6 complete when any of the following first occurs:  
7           1. It is first used by the owner or occupant of the improvement.  
8           2. It is first available for use after having been completed  
9 according to the contract or agreement covering the improvement, including  
10 agreed changes to the contract or agreement.  
11           3. Final inspection, if required, by the governmental body ~~which~~  
12 THAT issued the building permit for the improvement.  
13           ~~F.~~ I. In this section an action based in contract is an action  
14 based on a written real estate contract, sales agreement, construction  
15 agreement, conveyance or written agreement for construction or for the  
16 services set forth in subsection A of this section. This section ~~shall~~  
17 ~~not be construed to~~ DOES NOT extend the period prescribed by the laws of  
18 this state for bringing any action. If a shorter period of limitation is  
19 prescribed for a specific action, the shorter period governs.  
20           ~~G.~~ J. With respect to an improvement to real property that was  
21 substantially complete on or before September 15, 1989, the eight and  
22 nine-year periods established in subsections A and ~~B~~ D of this section  
23 shall begin to run on September 15, 1989. Notwithstanding the provisions  
24 of subsection ~~F~~ G of this section and section 12-505, subsection A, this  
25 subsection applies to claims that accrued before ~~the effective date of~~  
26 ~~this amendment to this section~~ MAY 14, 1992.