

SB 369 A STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

Senate Committee On Judiciary

Action Date: 04/08/19

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 7-0-0-0

Yeas: 7 - Bentz, Fagan, Gelser, Linthicum, Manning Jr, Prozanski, Thatcher

Fiscal: No fiscal impact

Revenue: No revenue impact

Prepared By: Channa Newell, Counsel

Meeting Dates: 4/5, 4/8

WHAT THE MEASURE DOES:

Adds the date when a public body issues a certificate of occupancy or the date when the owner uses or occupies the improvement for its intended purpose as possible triggers of substantial completion of a construction, alteration, or repair of improvement to real property.

ISSUES DISCUSSED:

- Clarity and predictability needed in construction defect disputes
- Use for intended purpose often indicates substantial completion
- Issues relating to statute of limitation
- Continued work group efforts

EFFECT OF AMENDMENT:

Restores current statute of limitations for actions against architects, landscape architects, or engineers. Removes provisions that substantial completion may occur when met by the terms of contract.

BACKGROUND:

An action against a person arising from the construction, alteration, or repair of any improvement to real property, including those providing supervision, inspection, design, planning, surveying, or architectural or engineering services must be commenced within ten years of substantial completion or abandonment of the project if the project is a small commercial or residential structure. For large commercial structures, the action must commence within six years of substantial completion or abandonment. For actions specifically against registered architects, landscape architects, and engineers, actions to recover damages, including damages for economic loss or delay, must be commenced within two years of discovery of the injury or damage, or that with the exercise of reasonable care, should have been discovered.

Senate Bill 369 A includes two additional occurrences that could trigger substantial completion of a project. Under the measure, substantial completion can include the date when a public body issues a certificate of occupancy or the date when the owner uses or occupies the improvement for its intended purpose.