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Maryland Statute of Repose

By: [Matthew T. Vocci](#)

Forty years ago, the Maryland legislature enacted the Statute of Repose (the "Statute"), which bars the right of plaintiffs from pursuing certain stale (old) claims. In its current iteration, the Statute prohibits a plaintiff's cause of action from accruing for damages to person or property resulting from the defective and unsafe conditions of improvements to real property that were completed more than 20 years before the injury. In addition, the Statute provides heightened protection to certain professions within the construction industry. Claims for damages against architects, professional engineers, and contractors no longer accrue 10 years after the improvement was completed. So, a plaintiff's damages must have occurred within 10 years after the completion of the improvement for their lawsuit to proceed against architects, professional engineers, and contractors.

The Statute, found in the Courts and Judicial Proceedings Article of the Maryland Code, states, in part:

(a) Injury occurring more than 20 years later. -- Except as provided by this section, no cause of action for damages accrues and a person may not seek contribution or indemnity for damages incurred when wrongful death, personal injury, or injury to real or personal property resulting from the defective and unsafe condition of an improvement to real property occurs more than 20 years after the date the entire improvement first becomes available for its intended use.

(b) Action against architect, professional engineer, or contractor. -- Except as provided by this section, a cause of action for damages does not accrue and a person may not seek contribution or indemnity from any architect, professional engineer, or contractor for damages incurred when wrongful death, personal injury, or injury to real or personal property, resulting from the defective and unsafe condition of an

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improvement to real property, occurs more than 10 years after the date the entire improvement first became available for its intended use.

Of course, there are factual issues that must be resolved in each case, such as affixing the date the entire improvement first became available and determining the date on which the injury or damage occurred. However, in all situations, the Statute mandates that an action must be filed within three years of its accrual. Such accrual may not occur later than 10 or 20 years after the completion date depending on whether the defendant is a design professional subject to the shorter period of repose.

While the Statute provides a definite time bar for actions against many of the individuals and companies involved in the construction of improvements in Maryland, certain defendants are not afforded the benefit of the Statute. Owners and tenants, who were in actual possession and control of property when injury occurred, may not avail themselves of the Statute. The legislature also excluded certain suppliers and manufacturers of asbestos or asbestos containing products from availing themselves of the Statute.

The bottom line for plaintiffs and defendants involved in construction defect litigation is that the Maryland Statute of Repose may produce dramatic results. Before engaging in litigation, plaintiffs should review the Statute to determine whether their claims may be time barred. Defendants, on the other hand, should recognize the power of the Statute and its ability to efficiently resolve suits in their favor.