

# HOUSE BILL No. 6437

September 7, 2006, Introduced by Rep. LaJoy and referred to the Committee on Tort Reform.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending sections 5805 and 5839 (MCL 600.5805 and 600.5839),  
section 5805 as amended by 2002 PA 715 and section 5839 as amended  
by 1985 PA 188.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5805. (1) A person shall not bring or maintain an action  
2       to recover damages for injuries to persons or property unless,  
3       after the claim first accrued to the plaintiff or to someone  
4       through whom the plaintiff claims, the action is commenced within  
5       the periods of time prescribed by this section.

6       (2) ~~The~~ **SUBJECT TO SUBSECTIONS (3) AND (4),** THE period of

1 limitations is 2 years for an action charging assault, battery, or  
2 false imprisonment.

3 (3) The period of limitations is 5 years for an action  
4 charging assault or battery brought by a person who has been  
5 assaulted or battered by his or her spouse or former spouse, an  
6 individual with whom he or she has had a child in common, or a  
7 person with whom he or she resides or formerly resided. This  
8 limitation applies to causes of action arising on or after February  
9 17, 2000 and to causes of action in which the period of limitations  
10 described in subsection (2) has not already expired as of February  
11 17, 2000.

12 (4) The period of limitations is 5 years for an action  
13 charging assault and battery brought by a person who has been  
14 assaulted or battered by an individual with whom he or she has or  
15 has had a dating relationship. This limitation applies to causes of  
16 action arising on or after January 1, 2003 and to causes of action  
17 in which the period of limitations described in subsection (2) has  
18 not already expired as of January 1, 2003.

19 (5) The period of limitations is 2 years for an action  
20 charging malicious prosecution.

21 (6) Except as otherwise provided in this chapter, the period  
22 of limitations is 2 years for an action charging malpractice.

23 (7) The period of limitations is 2 years for an action against  
24 a sheriff charging misconduct or neglect of office by the sheriff  
25 or the sheriff's deputies.

26 (8) The period of limitations is 2 years after the expiration  
27 of the year for which a constable was elected for actions based on

1 the constable's negligence or misconduct as constable.

2 (9) The period of limitations is 1 year for an action charging  
3 libel or slander.

4 (10) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE**  
5 period of limitations is 3 years after the time of the death or  
6 injury for all ~~other~~ actions to recover damages for the death of  
7 a person, or for injury to a person or property.

8 (11) The period of limitations is 5 years for an action to  
9 recover damages for injury to a person or property brought by a  
10 person who has been assaulted or battered by his or her spouse or  
11 former spouse, an individual with whom he or she has had a child in  
12 common, or a person with whom he or she resides or formerly  
13 resided. This limitation applies to causes of action arising on or  
14 after February 17, 2000 and to causes of action in which the period  
15 of limitations described in subsection (10) has not already expired  
16 as of February 17, 2000.

17 (12) The period of limitations is 5 years for an action to  
18 recover damages for injury to a person or property brought by a  
19 person who has been assaulted or battered by an individual with  
20 whom he or she has or has had a dating relationship. This  
21 limitation applies to causes of action arising on or after January  
22 1, 2003 and to causes of action in which the period of limitations  
23 described in subsection (2) has not already expired as of January  
24 1, 2003.

25 (13) The period of limitations is 3 years for a products  
26 liability action. However, in the case of a product that has been  
27 in use for not less than 10 years, the plaintiff, in proving a

1 prima facie case, shall be required to do so without benefit of any  
2 presumption.

3 (14) The period of limitations for an action against a state  
4 licensed architect, professional engineer, land surveyor, or  
5 contractor based on an improvement to real property shall be as  
6 provided in **THIS SECTION, SUBJECT TO AN APPLICABLE PERIOD OF REPOSE**  
7 **CONTAINED IN** section 5839.

8 (15) As used in this section, "dating relationship" means  
9 frequent, intimate associations primarily characterized by the  
10 expectation of affectional involvement. Dating relationship does  
11 not include a casual relationship or an ordinary fraternization  
12 between 2 individuals in a business or social context.

13 Sec. 5839. (1) ~~No~~ **A** person ~~may~~ **SHALL NOT** maintain ~~any~~ **AN**  
14 action to recover damages for ~~any~~ injury to property, real or  
15 personal, or for bodily injury or wrongful death, arising out of  
16 the defective and unsafe condition of an improvement to real  
17 property, ~~nor any~~ **OR AN** action for contribution or indemnity for  
18 damages sustained as a result of such injury, against any state  
19 licensed architect or professional engineer performing or  
20 furnishing the design or supervision of construction of the  
21 improvement, or against any contractor making the improvement,  
22 ~~more than~~ **UNLESS THE ACTION IS COMMENCED WITHIN WHICHEVER OF THE**  
23 **FOLLOWING PERIODS OF REPOSE IS APPLICABLE:**

24 **(A) IF SUBDIVISION (B) DOES NOT APPLY,** 6 years after the time  
25 of occupancy of the completed improvement, use, or acceptance of  
26 the improvement. ~~—, or 1 year after the defect is discovered or~~  
27 ~~should have been discovered, provided that~~

(B) IF the defect constitutes the proximate cause of the injury or damage for which the action is brought and is the result of gross negligence on the part of the contractor or licensed architect or professional engineer, **1 YEAR AFTER THE DEFECT IS DISCOVERED OR SHOULD HAVE BEEN DISCOVERED**. However, ~~no such~~ **AN** action **TO WHICH THIS SUBDIVISION APPLIES** shall **NOT** be maintained more than 10 years after the time of occupancy of the completed improvement, use, or acceptance of the improvement.

(2) ~~No~~ **A** person ~~may~~ **SHALL NOT** maintain ~~any~~ **AN** action to recover damages based on error or negligence of a state licensed land surveyor in the preparation of a survey or report more than 6 years after the delivery of the survey or report to the person for whom it was made or the person's agent.

(3) As used in this section: ~~—~~ "state

**(A) "CONTRACTOR" MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP, OR OTHER BUSINESS ENTITY THAT MAKES AN IMPROVEMENT TO REAL PROPERTY.**

**(B) "STATE** licensed architect or professional engineer" or "state licensed land surveyor" means ~~any~~ **AN** individual so licensed, or ~~any~~ **A** corporation, partnership, or other business entity on behalf of whom the state licensed architect, professional engineer, or land surveyor is performing or directing the performance of the architectural, professional engineering, or land surveying service.

~~—— (4) As used in this section, "contractor" means an individual, corporation, partnership, or other business entity which makes an improvement to real property.~~

1 ~~—— (5) The amendments to subsection (1) added by this amendatory~~  
2 ~~act shall not apply to any state licensed architect or professional~~  
3 ~~engineer performing or furnishing the design or supervision of~~  
4 ~~construction of an improvement if, prior to the effective date of~~  
5 ~~this amendatory act, 6 or more years have expired after the time of~~  
6 ~~occupancy of the completed improvement, use, or acceptance of the~~  
7 ~~improvement.~~

8 ~~—— (6) The changes to subsection (1) made by this 1985 amendatory~~  
9 ~~act shall apply only to a cause of action which accrues on or after~~  
10 ~~the effective date of this 1985 amendatory act and shall not apply~~  
11 ~~to a cause of action which accrues before the effective date of~~  
12 ~~this 1985 amendatory act.~~