

The House Committee on Judiciary offers the following substitute to HB 177:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated,
2 relating to limitations of actions on recovery for deficiencies connected with improvements
3 to realty and resulting injuries, so as to change when the statute of limitations shall accrue
4 for certain actions arising from burial of construction waste or materials; to provide for
5 related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 3 of Chapter 3 of Title 9 of the Official Code of Georgia Annotated, relating to
9 limitations of actions on recovery for deficiencies connected with improvements to realty and
10 resulting injuries, is amended by revising Code Section 9-3-51, relating to limitations on
11 recovery for deficiency in planning, supervising, or constructing improvement to realty or
12 for resulting injuries to property or person, as follows:

13 "9-3-51.

14 (a) No action to recover damages:

15 (1) For any deficiency in the survey or plat, planning, design, specifications, supervision
16 or observation of construction, or construction of an improvement to real property;

17 (2) For injury to property, real or personal, arising out of any such deficiency; or

18 (3) For injury to the person or for wrongful death arising out of any such deficiency
19 shall be brought against any person performing or furnishing the survey or plat, design,
20 planning, supervision or observation of construction, or construction of such an
21 improvement more than eight years after substantial completion of such an improvement.

22 (b) Notwithstanding subsection (a) of this Code section, in the case of such an injury to
23 property or the person or such an injury causing wrongful death, which injury occurred
24 during the seventh or eighth year after such substantial completion, an action in tort to
25 recover damages for such an injury or wrongful death may be brought within two years

26 after the date on which such injury occurred, irrespective of the date of death, but in no
27 event may such an action be brought more than ten years after the substantial completion
28 of construction of such an improvement.

29 (c) Notwithstanding subsections (a) and (b) of this Code section, the provisions of Code
30 Sections 9-3-30 and 8-2-35, or any other law, all causes of action for trespass upon or
31 damage to real property due to burial of construction waste or materials shall accrue when
32 the trespass upon or damage to real property is discovered or, in the exercise of reasonable
33 diligence, should have been discovered, whichever first occurs. An action in tort to recover
34 damages for such trespass upon or damage to real property shall be brought within two
35 years after such cause of action accrues and shall be demonstrated by a preponderance of
36 the evidence."

37 **SECTION 2.**

38 All laws and parts of laws in conflict with this Act are repealed.