

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 870
Apr 16, 2019
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH50086-LR-68F

Short Title: Civil Procedure/Limitations/Land Surveyors. (Public)

Sponsors: Representatives Arp, Torbett, Brody, and Richardson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY STATUTES OF LIMITATION AND REPOSE APPLICABLE TO
3 ACTIONS BROUGHT AGAINST PROFESSIONAL LAND SURVEYORS.

4 Whereas, the General Assembly has provided through the enactment of G.S. 1-47(6)
5 and G.S. 1-52(18) two limitations periods for actions brought against a registered land surveyor
6 as defined in G.S. 89C-3(9) or a person acting under the surveyor's supervision and control for
7 physical damage or for economic or monetary loss due to negligence or a deficiency in the
8 performance of surveying or platting; and

9 Whereas, it was the intent of the General Assembly to establish a 3-year statute of
10 limitation under G.S. 1-52(18) and a 10-year statute of repose under G.S. 1-47(6) for such
11 actions; and

12 Whereas, the North Carolina courts have held that the limitations period under
13 G.S. 1-47(6) is more specific and provides a longer period of time than the limitations period
14 under G.S. 1-52(18); and, consequently, that the 10-year limitation under G.S. 1-47(6) applies to
15 the exclusion of the 3-year limitation under G.S. 1-52(18); and

16 Whereas, such ruling by the North Carolina courts have rendered the 3-year limitation
17 under G.S. 1-52(18) a nullity, contrary to the intent of the General Assembly, and

18 Whereas, the General Assembly wishes to amend the provisions of G.S. 1-47 and
19 G.S. 1-52 to establish a 3-year statute of limitation and 7-year statute of repose for such causes
20 of action; Now, therefore,

21 The General Assembly of North Carolina enacts:

22 SECTION 1. G.S. 1-47 reads as rewritten:

23 "§ 1-47. Ten years.

24 Within ten years an action –

25 ...

26 (6) a. ~~Against any registered land surveyor as defined in G.S. 89C-3(9) or any~~
27 ~~person acting under his supervision and control for physical damage or for~~
28 ~~economic or monetary loss due to negligence or a deficiency in the~~
29 ~~performance of surveying or platting, within 10 years after the last act or~~
30 ~~omission giving rise to the cause of action.~~

31 b. ~~For purposes of this subdivision, "surveying and platting" means boundary~~
32 ~~surveys, topographical surveys, surveys of property lines, and any other~~
33 ~~measurement or surveying of real property and the consequent graphic~~
34 ~~representation thereof.~~

35 e. ~~The limitation prescribed by this subdivision shall apply to the exclusion of~~
36 ~~G.S. 1-15(e) and G.S. 1-52(16).~~



1 "

2 **SECTION 2.** G.S. 1-52(18) reads as rewritten:

3 "**§ 1-52. Three years.**

4 Within three years an action –

5 ...

6 (18) Against any ~~registered professional~~ land surveyor as defined in G.S. 89C-3(9)
7 or any person acting under ~~his~~ the surveyor's supervision and control for
8 physical damage or economic or monetary loss due to negligence or a
9 deficiency in the performance of surveying or ~~platting as defined in~~
10 G.S. 1-47(6) platting. A cause of action for physical damage under this
11 subdivision shall be deemed to accrue at the time of the occurrence of the
12 physical damage giving rise to the cause of action; provided that, all other
13 causes of action under this subdivision shall commence within seven years
14 from the specific last act of the professional land surveyor or any person acting
15 under the surveyor's supervision and control giving rise to the cause of action.
16 For purposes of this subdivision, "surveying and platting" means boundary
17 surveys, topographical surveys, surveys of property lines, and any other
18 measurement or surveying of real property and the consequent graphic
19 representation thereof.

20 "

21 **SECTION 3.** If any section or provision of this act is declared unconstitutional or
22 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
23 the part declared to be unconstitutional or invalid.

24 **SECTION 4.** This act is effective when it becomes law and applies to actions filed,
25 arising, or pending on or after that date. For purposes of this section, an action is pending for a
26 plaintiff if there has been no final disposition with prejudice and mandate issued against that
27 plaintiff issued by the highest court of competent jurisdiction where the claim was timely filed
28 or appealed as to all the plaintiff's claims for relief to which this act otherwise applies.