

House Bill 177

By: Representative Caldwell of the 20<sup>th</sup>

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 applicability; to provide for related matters; to repeal conflicting laws; and for other  
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

14 "9-3-51.

15 (a) No action to recover damages:

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

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

19 (3) For injury to the person or for wrongful death arising out of any such deficiency

20 shall be brought against any person performing or furnishing the survey or plat, design,  
21 planning, supervision or observation of construction, or construction of such an  
22 improvement more than eight years after substantial completion of such an improvement.

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

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

30 (c) Notwithstanding subsections (a) and (b) of this Code section, the provisions of Code  
31 Sections 9-3-30 and 8-2-35, or any other law, all causes of action for trespass upon or  
32 damage to real property due to burial of construction waste or materials shall accrue when  
33 the trespass upon or damage to real property is discovered or, in the exercise of reasonable  
34 diligence, should have been discovered, whichever first occurs. An action in tort to recover  
35 damages for such trespass upon or damage to real property shall be brought within two  
36 years after such cause of action accrues and shall be demonstrated by a preponderance of  
37 the evidence for any action brought within eight years of the date of substantial completion  
38 of such an improvement or by clear and convincing evidence for any action brought after  
39 eight years have passed since the date of substantial completion of such an improvement.  
40 This subsection shall apply to causes of action related to projects completed on and after  
41 July 1, 2019, but shall not revive any cause of action which was barred by former law  
42 before July 1, 2019."

43 **SECTION 2.**

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