

# JUDICIAL PROCEDURE, CIVIL RULES OF COURT

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## CHAPTER 254

S. B. No. 303  
(Holand, Wilhite)

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### LIMITATION ON ACTIONS FOR DESIGN OF IMPROVEMENTS ON REAL PROPERTY

#### AN ACT

To provide a period of limitation within which time claims for damages may be brought against persons performing or furnishing the design, planning, supervision or observation of construction of improvements on real property.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Limitation of Action.)** No action, whether in contract (oral or written, sealed or unsealed), in tort or otherwise, to recover damages

1. For any deficiency in the design, planning, supervision or observation of construction or construction of an improvement to real property;
2. For injury to property, real or personal, arising out of any such deficiency; or
3. For injury to the person or for wrongful death arising out of any such deficiency,

shall be brought against any person performing or furnishing the design, planning, supervision or observation of construction, or construction of such an improvement more than ten years after substantial completion of such an improvement.

**§ 2. Extension of Limitation.)** Notwithstanding the provisions of section 1 of this Act, in the case of such an injury to property or the person or such an injury causing wrongful death, which injury occurred during the tenth year after such substantial completion, an action in tort to recover damages for such an injury or wrongful death may be brought within two years after the date on which such injury occurred (irrespective of the date of death) but in no event may such an action be brought more than twelve years after the substantial completion of construction of such an improvement.

Nothing in this Act shall be construed as extending the period prescribed by the laws of this state for the bringing of any action.

**§ 3. Limitation Not Applicable to Certain Parties.)** The limitation prescribed by this Act shall not be asserted by way of defense by any person in actual possession or the control, as owner, tenant, or otherwise, of such an improvement at the time any deficiency in such an improvement constitutes the proximate cause of the injury or death for which it is proposed to bring an action.

**§ 4. Definition of Term "Person".)** As used in this Act, the term "person" shall mean an individual, corporation, partnership, business trust, unincorporated organization, association, or joint stock company.

Approved March 14, 1967.

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## CHAPTER 255

S. B. No. 396  
(Wilhite)

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### LIABILITY OF SHERIFF IN AMERCEMENT PROCEEDINGS

#### AN ACT

To amend and reenact section 28-21-19 of the North Dakota Century Code, relating to a reduction of liability of the sheriff in amercement proceedings.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Amendment.)** Section 28-21-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**28-21-19. Amercement of Sheriff.)** If any sheriff or other officer shall refuse or neglect to execute any writ of execution directed to him which has come to his hands, or to sell any personal or real property, or to return any writ of execution to the proper court, on or before the return day, or on demand to pay over to the judgment creditor or his agent or attorney of record all moneys by him collected or received for the use of said party at my time after collecting or receiving the same, except as otherwise provided, or on demand made by the judgment debtor or his agent or attorney of record, to pay all surplus received from any sale, such sheriff or other officer, on motion in court and two days' notice thereof in writing,

shall be amerced in an account not to exceed that which would have been realized by the judgment creditor or judgment debtor, plus reasonable attorney's fees, plus two hundred dollars.

Approved March 14, 1967.