

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 373

AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 32-30-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. **(a) As used in this section, "designer" means a person who:**

- (1) designs, plans, supervises, or observes the construction of an improvement to real property; or**
- (2) constructs an improvement to real property.**

(b) As used in this section, "possessor" means a person having ownership, possession, or control of real property at the time an alleged deficiency in an improvement to the real property causes injury or wrongful death.

(c) As used in this section, "deficiency" does not mean a failure by a possessor to use reasonable care to maintain an improvement to real property following a substantial completion of an improvement.

(d) An action to recover damages, whether based upon contract, tort, nuisance, or another legal remedy, for:

- (1) a deficiency or an alleged deficiency in the design, planning, supervision, construction, or observation of construction of an improvement to real property;**
- (2) an injury to real or personal property arising out of a deficiency; or**
- (3) an injury or wrongful death of a person arising out of a**

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deficiency;
may not be brought against any person who designs, plans, supervises,
or observes the construction of or constructs an improvement to the real
property a **designer or possessor** unless the action is commenced
within the earlier of ten (10) years after the date of substantial
completion of the improvement or twelve (12) years after the
completion and submission of plans and specifications to the owner if
the action is for a deficiency in the design of the improvement.

SECTION 2. IC 32-30-1-7 IS REPEALED [EFFECTIVE JULY 1,
2005].

SECTION 3. [EFFECTIVE JULY 1, 2005] **IC 32-30-1-5, as
amended by this act, applies only to a cause of action accruing after
June 30, 2005.**

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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SEA 373 — Concur+

