

**STATUTE OF LIMITATIONS
IMPROVEMENT TO PROPERTY
MINNESOTA STATUTE SECTION 541.051
Winter 2004**

I. STATUTE OF LIMITATIONS - Time period in which someone can be sued for a wrongful act or a breach of an agreement.

II. IMPROVEMENT TO REAL PROPERTY

A. The Statute of Limitations for improvement to real property is two years from the discovery of the defect.

1. The two year time period starts from the day the symptom is discovered, even if the cause of the problem is unknown.
2. Example: Mary buys a newly constructed home. Sometime after she moved in she discovers water dripping from the ceiling. She does not know whether the water is from condensation, a leaking roof, or another cause. The Statute of Limitations to sue the builder starts the day Mary discovers the leak, and not when she eventually determines the cause.
 - a. Same example, except Mary lives in the house with the leak for 3 years and sells the home to John. John then sues the builder over the leak. The two year statute of limitations started when Mary first saw the leak.
3. In some cases it may take several years to determine the cause of a problem. If you are the property owner and are getting close to the two year time period from the discovery of the problem, sue everyone who may be responsible. You can always agree to hold up aggressively pursuing the lawsuit until you determine the cause and who is responsible.

III. STATUTE OF REPOSE

A. In all cases, EXCEPT RESIDENTIAL UNDER § 327A, the Statute of Limitations ends 10 years from the date of substantial completion of the improvement.

1. Where the symptom is discovered in years 9 or 10, an action may still be brought, but in no case may it be brought more than 12 years after substantial completion.

2. Substantial completion is the date on which the construction is sufficiently complete for the owner to or occupy the improvement for the intended purpose.
- B. Keep diaries or notes on all customer calls, including the date and nature of the problem.
- C. The two year Statute of Limitation does not apply to the manufacturer or supplier of equipment installed on the property.
1. Equipment usually has a four year Statute of Limitations.
 2. The law specifically says that the two year limitation does not apply to the manufacturer or supplier of the equipment. It is unclear how this would work in practice. Normally, the contractor hires a subcontractor who in turn purchases the equipment, or the contractor may purchase the equipment themselves. In either case, the owner does not have a contract with the manufacturer or the supplier and no way to sue them directly. The courts could determine that the builder was the “supplier” of the equipment and hold the builder liable during the four year time period.

IV. TEMPORARY IMPROVEMENTS

- A. A temporary roof dam to hold water away from a work area is not a permanent improvement and not covered by Section 541.051. Instead, the general, 6 year Statute of Limitations applies.

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