

AMENDED IN ASSEMBLY APRIL 25, 2011

AMENDED IN ASSEMBLY MARCH 15, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1207**

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**Introduced by Assembly Member Furutani**

February 18, 2011

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~~An act to amend Section 14010 of the Corporations Code, relating to small businesses. An act to amend Section 337.15 of the Code of Civil Procedure, relating to civil actions.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1207, as amended, Furutani. ~~Small business.~~ *Civil actions: limitations: real property development.*

*Existing law prohibits bringing an action for damages from any person who develops real property or performs or furnishes the design, specifications, surveying, planning, supervision, testing, or observation of construction or construction of an improvement to real property more than 10 years after the substantial completion of the development or improvement, as specified.*

*This bill would provide that this limitation does not apply to an action in tort to recover damages for damage to real or personal property, or for personal injury or wrongful death from exposure to hazardous or toxic materials, pollution, hazardous waste, or associated environmental remediation activities.*

~~Existing law, the California Small Business Financial Development Corporation Law, provides for a program to provide loans and loan guarantees to small businesses, as specified, and defines certain terms for its purposes.~~

~~This bill would define “microenterprise” as an entity that has 5 or fewer employees and lacks sufficient access to conventional loans, equity, or other banking services.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 337.15 of the Code of Civil Procedure is  
2     amended to read:

3     337.15. (a) No action may be brought to recover damages  
4     from any person, or the surety of a person, who develops real  
5     property or performs or furnishes the design, specifications,  
6     surveying, planning, supervision, testing, or observation of  
7     construction or construction of an improvement to real property  
8     more than 10 years after the substantial completion of the  
9     development or improvement for any of the following:

10    (1) Any latent deficiency in the design, specification, surveying,  
11    planning, supervision, or observation of construction or  
12    construction of an improvement to, or survey of, real property.

13    (2) Injury to property, real or personal, arising out of any such  
14    latent deficiency.

15    (b) As used in this section, “latent deficiency” means a  
16    deficiency which is not apparent by reasonable inspection.

17    (c) As used in this section, “action” includes an action for  
18    indemnity brought against a person arising out of that person’s  
19    performance or furnishing of services or materials referred to in  
20    this section, except that a cross-complaint for indemnity may be  
21    filed pursuant to subdivision (b) of Section 428.10 in an action  
22    which has been brought within the time period set forth in  
23    subdivision (a) of this section.

24    (d) Nothing in this section shall be construed as extending the  
25    period prescribed by the laws of this state for bringing any action.

26    (e) The limitation prescribed by this section shall not be asserted  
27    by way of defense by any person in actual possession or the control,  
28    as owner, tenant or otherwise, of such an improvement, at the time  
29    any deficiency in the improvement constitutes the proximate cause  
30    for which it is proposed to bring an action.

31    (f) This section shall not apply to actions based on willful  
32    misconduct or fraudulent concealment.

1 (g) *The limitation prescribed by this section does not apply to*  
2 *an action in tort to recover damages for damage to real or personal*  
3 *property, or for personal injury or wrongful death from exposure*  
4 *to hazardous or toxic materials, pollution, hazardous waste, or*  
5 *associated environmental remediation activities.*

6 ~~(g)~~

7 (h) (1) The 10-year period specified in subdivision (a) shall  
8 commence upon substantial completion of the improvement, but  
9 not later than the date of one of the following, whichever first  
10 occurs:

11 (1)

12 (A) The date of final inspection by the applicable public agency.

13 (2)

14 (B) The date of recordation of a valid notice of completion.

15 (3)

16 (C) The date of use or occupation of the improvement.

17 (4)

18 (D) One year after termination or cessation of work on the  
19 improvement.

20 ~~The~~

21 (2) *The date of substantial completion shall relate specifically*  
22 *to the performance or furnishing design, specifications, surveying,*  
23 *planning, supervision, testing, observation of construction or*  
24 *construction services by each profession or trade rendering services*  
25 *to the improvement.*

26 ~~SECTION 1. Section 14010 of the Corporations Code is~~  
27 ~~amended to read:~~

28 ~~14010. Unless the context otherwise requires, the definitions~~  
29 ~~in this section govern the construction of this part.~~

30 ~~(a) "Corporation" or "the corporation" means any nonprofit~~  
31 ~~California small business financial development corporation created~~  
32 ~~pursuant to this part.~~

33 ~~(b) "Financial institution" means banking organizations~~  
34 ~~including national banks and trust companies authorized to conduct~~  
35 ~~business in California and state-chartered commercial banks, trust~~  
36 ~~companies, and savings and loan associations.~~

37 ~~(c) "Financial company" means banking organizations including~~  
38 ~~national banks and trust companies, savings and loan associations,~~  
39 ~~state insurance companies, mutual insurance companies, and other~~  
40 ~~banking, lending, retirement, and insurance organizations.~~

- 1     ~~(d) “Expansion Fund” means the California Small Business~~  
2     ~~Expansion Fund.~~
- 3     ~~(e) Unless otherwise defined by the director by regulation,~~  
4     ~~“small business loan” means a loan to a business defined as an~~  
5     ~~eligible small business as set forth in Section 121.3-10 of Part 121~~  
6     ~~of Chapter 1 of Title 13 of the Code of Federal Regulations,~~  
7     ~~including those businesses organized for agricultural purposes that~~  
8     ~~create or retain employment as a result of the loan. From time to~~  
9     ~~time, the director shall provide guidelines as to the preferred ratio~~  
10    ~~of jobs created or retained to total funds borrowed for guidance to~~  
11    ~~the corporations.~~
- 12    ~~(f) “Employment incentive loan” means a loan to a qualified~~  
13    ~~business, as defined in subdivision (h) of Section 7082 of the~~  
14    ~~Government Code, or to a business located within an enterprise~~  
15    ~~zone, as defined in subdivision (b) of Section 7072 of the~~  
16    ~~Government Code.~~
- 17    ~~(g) “Loan committee” means a committee appointed by the~~  
18    ~~board of directors of a corporation to determine the course of action~~  
19    ~~on a loan application pursuant to Section 14060.~~
- 20    ~~(h) “Board of directors” means the board of directors of the~~  
21    ~~corporation.~~
- 22    ~~(i) “Board” means the California Small Business Board.~~
- 23    ~~(j) “Agency” means the Business, Transportation and Housing~~  
24    ~~Agency.~~
- 25    ~~(k) “Director” means the person designated to this title by the~~  
26    ~~secretary.~~
- 27    ~~(l) “Secretary” means the Secretary of Business, Transportation~~  
28    ~~and Housing Agency.~~
- 29    ~~(m) “Trust fund” means the money from the expansion fund~~  
30    ~~that is held in trust by a financial institution or a financial company.~~  
31    ~~A trust fund is not a deposit of state funds and is not subject to the~~  
32    ~~requirements of Section 16506 of the Government Code.~~
- 33    ~~(n) “Trust fund account” means an account within the trust fund~~  
34    ~~that is allocated to a particular small business financial~~  
35    ~~development corporation for the purpose of paying loan defaults~~  
36    ~~and claims on bond guarantees for a specific small business~~  
37    ~~financial development corporation.~~
- 38    ~~(o) “Trustee” is the lending institution or financial company~~  
39    ~~selected by the office to hold and invest the trust fund. The~~

1 ~~agreement between the agency and the trustee shall not be~~  
2 ~~construed to be a deposit of state funds.~~

3 ~~(p) “Microenterprise” means a sole proprietorship, partnership,~~  
4 ~~limited liability company, or corporation that meets all of the~~  
5 ~~following requirements:~~

6 ~~(1) Has five or fewer employees, including the owner.~~

7 ~~(2) Generally lacks sufficient access to conventional loans,~~  
8 ~~equity, or other banking services.~~

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