

BILL TEXT:

STATE OF NEW YORK

S. 1053

A. 1983

2005-2006 Regular Sessions

SENATE - ASSEMBLY

January 24, 2005

IN SENATE -- Introduced by Sens. LITTLE, FARLEY, MEIER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

IN ASSEMBLY -- Introduced by M. of A. SAYWARD -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules and the executive law, in relation to the statute of limitations for certain actions commenced by the Adirondack park agency within the Adirondack Park

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 212 of the civil practice law and rules is amended
2 by adding a new subdivision (e) to read as follows:

3 (e) To enforce certain violations of Adirondack park agency rules and
4 regulations within the Adirondack Park. An action to enforce violations
5 of the rules and regulations of the Adirondack park agency within the
6 Adirondack Park shall be commenced by such agency within ten years after
7 the occurrence of such violation, or in the exercise of reasonable dili-
8 gence should have been discovered by a public servant who has the
9 responsibility to enforce such provisions.

10 § 2. Subdivision 1 of section 813 of the executive law, as added by
11 chapter 898 of the laws of 1976, is amended to read as follows:

12 1. Any person who violates any provision of this article or any rule
13 or regulation promulgated by the agency, or the terms or conditions of
14 any order or permit issued by the agency pursuant to this article shall
15 be liable to a civil penalty of not more than five hundred dollars for
16 each day or part thereof during which such violation continues. The
17 civil penalties provided by this subdivision shall be recoverable in an
18 action instituted in the name of the agency by the attorney general on
19 his or her own initiative or at the request of the agency within ten
20 years of the occurrence of such violation, or in the exercise of reason-
21 able diligence should have been discovered by a public servant who has
22 the responsibility to enforce such provisions.

23 § 3. This act shall take effect immediately.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD00707-01-5

SPONSORS MEMO:

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(e)

BILL NUMBER: A1983

SPONSOR: Sayward

TITLE OF BILL: An act to amend the civil practice law and rules and the executive law, in relation to the statute of limitations for certain actions commenced by the Adirondack park agency within the Adirondack Park

PURPOSE: To enact a reasonable statute of limitations for actions commenced by the Adirondack Park Agency within the Adirondack Park against a property owner.

SUMMARY OF PROVISIONS: Section 1 - amends section 212 of the civil practice law and rules by adding a new subdivision (e) that provides a statute of limitations of ten years to enforce certain violations of the APA rules and regulations. Any action to enforce violations shall be commenced by such agency within ten years after the occurrence of such violation, or in the exercise of reasonable diligence should have been discovered by a public servant who has the responsibility to enforce such provisions.

Section 2 - amends section 813 of the executive law to add a statute of limitations of ten years.

Section 3 - contains the effective date.

JUSTIFICATION: The Adirondack Park Agency was formed in 1973 to provide for overall conservation, protection, preservation, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Adirondack Park. The resources the APA protects are very important, but there needs to be a balance between protecting our natural resources and the human resource needs of the people that live and make their living in the Park.

The APA is charged with, among other responsibilities, enforcing violations of its rules and regulations. The APA has, at times, taken many years to enforce violations of their regulations. Frequently the property in question has changed ownership and the new owners are faced with correcting a violation they were totally unaware of and one that happened many years prior to the enforcement action. We believe there should be a limit as to how far back the APA can go requiring correction of violations. This bill would ease the burden of the regulators and will also give the APA a starting point for review.

A recent example of the need for a statute of limitations is best illustrated in the Monda Case. The Monda's purchased a home in the Town of Putnam, Washington County, from a family who had owned the property for many, many years. The Monda's contacted the APA for purposes of getting a property line adjustment. When the representative from the APA came to look at the property, he noticed the deck on the house, which had been there for approximately 30 years. He then notified them that they were in violation and must remove the portion of the deck which was over 10' x 10', the dimensions allowed by the APA. If they failed to do so, they would face a significant fine. Had this legislation been in place, the new owners would not be subject to a violation for which they were not responsible.

LEGISLATIVE HISTORY: 2004: S.5678A Codes; A.9111A Codes

FISCAL IMPLICATIONS: None to the State.

EFFECTIVE DATE: This act shall take effect immediately.

