

# SENATE BILL REPORT

## SB 5031

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As Reported by Senate Committee On:  
Law & Justice, February 20, 2013

**Title:** An act relating to actions for damage to real property resulting from construction, alteration, or repair on adjacent property.

**Brief Description:** Requiring actions for damage to real property resulting from construction, alteration, or repair on adjacent property to be commenced within two years after the property owner first discovered or reasonably should have discovered the damage.

**Sponsors:** Senator Padden.

**Brief History:**

**Committee Activity:** Law & Justice: 1/25/13, 2/20/13 [DPS].

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 5031 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; Carrell, Vice Chair; Kline, Ranking Member; Darneille, Kohl-Welles, Pearson and Roach.

**Staff:** Aldo Melchiori (786-7439)

**Background:** The statute of limitations for an action regarding waste or trespass upon real property or for injuring personal property is three years. The Supreme Court of Washington held, in *Vern J. Oja and Assoc. v. Washington Park Towers, Inc.*, that the cause of action for damages caused by pile driving activity on an adjacent property accrued when the building was completed. The court found that the person claiming damages was entitled to wait until completion of the construction project before commencing an action so that the full extent of the damages could be determined.

**Summary of Bill (Recommended Substitute):** An action for damage to real property resulting from construction, alteration, or repair on an adjacent property, whether alleging negligence, strict liability, trespass, or any other cause of action, must be commenced within three years after the property owner first discovered or reasonably should have discovered the damage.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute):** The statute of limitations is changed from two years to three years.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: Many large projects take eight years or more to complete. If the statute of limitations allows the person to wait until the construction is completed, the subcontractor who did the damage could be gone. Activities that typically cause damage are those that occur at the beginning of construction projects. The change would avoid the court's extension of the statute of limitations beyond what is reasonable.

**Persons Testifying:** PRO: Loren Armstrong, Sound Transit.