

Introduced by Senator Laird

February 20, 2025

~~An act to amend Section 1101.5 of the Civil Code, relating to water use efficiency improvements.~~ *An act to amend Sections 340.1, 864, and 1038 of the Code of Civil Procedure, relating to civil actions.*

LEGISLATIVE COUNSEL'S DIGEST

SB 577, as amended, Laird. ~~Transfer of real property: water use efficiency improvements.~~ *Civil actions.*

(1) *Existing law provides that there is no time limit for commencement of certain actions for recovery of damages suffered as a result of childhood sexual assault, including an action for liability against any person or entity who owed a duty of care to the plaintiff and an action for liability against any person or entity for an intentional act that was the legal cause of the childhood sexual assault.*

This bill would prohibit a plaintiff from refiling an action of the type described above that was dismissed without prejudice if more than 5 years have passed since the filing date of the dismissed action.

(2) *Under existing law, bonds, warrants, contracts, obligations, and evidences of indebtedness, for the purpose of validating proceedings, are deemed to be in existence upon their authorization, as specified.*

This bill would provide that, for purposes of determining the validity of refunding bonds to refund a tort action judgment entered against a public entity, as specified, indebtedness is deemed to be in existence on the date of the public entity's adoption of a resolution or ordinance that satisfies specified conditions.

(3) Existing law permits a defendant or a cross-defendant in a civil proceeding under the Government Claims Act, or in any civil action for indemnity or contribution, to seek from the court, at the time of the granting of a motion for summary judgment, directed verdict, motion for judgment in a nonjury trial, or nonsuit dismissing the moving party other than the plaintiff, petitioner, cross-complainant, or intervenor, a determination of whether the plaintiff, petitioner, cross-complainant, or intervenor brought their proceeding in good faith and with reasonable cause. If the court determines that the proceeding was not brought in good faith or with reasonable cause, existing law requires the court to decide the reasonable and necessary defense costs incurred by the party opposing the proceeding and to render judgment in favor of that party. Existing law applies these provisions only if the defendant or cross-defendant has made a motion for summary judgment, a motion for directed verdict, a motion for judgment in a nonjury trial, or nonsuit.

This bill would expand the above provision to apply to a demurrer brought by a defendant or cross-defendant.

~~Existing law requires replacement of noncompliant plumbing fixtures with water-conserving plumbing fixtures in any multifamily residential real property and in any commercial real property, as specified.~~

~~This bill would make a nonsubstantive change to those provisions.~~

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 340.1 of the Code of Civil Procedure is
2 amended to read:

3 340.1. (a) There is no time limit for the commencement of
4 any of the following actions for recovery of damages suffered as
5 a result of childhood sexual assault:

6 (1) An action against any person for committing an act of
7 childhood sexual assault.

8 (2) An action for liability against any person or entity who owed
9 a duty of care to the plaintiff, if a wrongful or negligent act by that
10 person or entity was a legal cause of the childhood sexual assault
11 that resulted in the injury to the plaintiff.

12 (3) An action for liability against any person or entity if an
13 intentional act by that person or entity was a legal cause of the
14 childhood sexual assault that resulted in the injury to the plaintiff.

1 (b) (1) In an action described in subdivision (a), a person who
2 is sexually assaulted and proves it was as the result of a cover up
3 may recover up to treble damages against a defendant who is found
4 to have covered up the sexual assault of a minor, unless prohibited
5 by another law.

6 (2) For purposes of this subdivision, a “cover up” is a concerted
7 effort to hide evidence relating to childhood sexual assault.

8 (c) “Childhood sexual assault” as used in this section includes
9 any act committed against the plaintiff that occurred when the
10 plaintiff was under the age of 18 years and that would have been
11 proscribed by Section 266j of the Penal Code; Section 285 of the
12 Penal Code; paragraph (1) or (2) of subdivision (b), or of
13 subdivision (c), of Section 286 of the Penal Code; subdivision (a)
14 or (b) of Section 288 of the Penal Code; paragraph (1) or (2) of
15 subdivision (b), or of subdivision (c), of Section 287 or of former
16 Section 288a of the Penal Code; subdivision (h), (i), or (j) of
17 Section 289 of the Penal Code; any sexual conduct as defined in
18 paragraph (1) of subdivision (d) of Section 311.4 of the Penal
19 Code; Section 647.6 of the Penal Code; or any prior laws of this
20 state of similar effect at the time the act was committed. This
21 subdivision does not limit the availability of causes of action
22 permitted under subdivision (a), including causes of action against
23 persons or entities other than the alleged perpetrator of the abuse.

24 (d) This section shall not be construed to alter the otherwise
25 applicable burden of proof, as defined in Section 115 of the
26 Evidence Code, that a plaintiff has in a civil action subject to this
27 section.

28 (e) Every plaintiff 40 years of age or older at the time the action
29 is filed shall file certificates of merit as specified in subdivision
30 (f).

31 (f) Certificates of merit setting forth the facts that support the
32 declaration shall be executed by the attorney for the plaintiff and
33 by a licensed mental health practitioner selected by the plaintiff
34 declaring, respectively, as follows:

35 (1) That the attorney has reviewed the facts of the case,
36 consulted with at least one mental health practitioner who the
37 attorney reasonably believes is knowledgeable of the relevant facts
38 and issues involved in the particular action, and concluded on the
39 basis of that review and consultation that there is reasonable and
40 meritorious cause for the filing of the action.

(2) That the mental health practitioner consulted is licensed to practice and practices in this state and is not a party to the action, that the practitioner is not treating and has not treated the plaintiff, and that the practitioner has interviewed the plaintiff and is knowledgeable of the relevant facts and issues involved in the particular action, and has concluded, on the basis of the practitioner's knowledge of the facts and issues, that in the practitioner's professional opinion there is a reasonable basis to believe that the plaintiff had been subject to childhood sexual abuse.

(g) If certificates are required pursuant to subdivision (e), the attorney for the plaintiff shall execute a separate certificate of merit for each defendant named in the complaint.

(h) In any action subject to subdivision (e), a defendant shall not be served, and the duty to serve a defendant with process does not attach, until the court has reviewed the certificates of merit filed pursuant to subdivision (f) with respect to that defendant, and has found, in camera, based solely on those certificates of merit, that there is reasonable and meritorious cause for the filing of the action against that defendant. At that time, the duty to serve that defendant with process shall attach.

(i) A violation of this section may constitute unprofessional conduct and may be the grounds for discipline against the attorney.

(j) The failure to file certificates in accordance with this section shall be grounds for a demurrer pursuant to Section 430.10 or a motion to strike pursuant to Section 435.

(k) In any action subject to subdivision (e), a defendant shall be named by "Doe" designation in any pleadings or papers filed in the action until there has been a showing of corroborative fact as to the charging allegations against that defendant.

(l) At any time after the action is filed, the plaintiff may apply to the court for permission to amend the complaint to substitute the name of the defendant or defendants for the fictitious designation, as follows:

(1) The application shall be accompanied by a certificate of corroborative fact executed by the attorney for the plaintiff. The certificate shall declare that the attorney has discovered one or more facts corroborative of one or more of the charging allegations against a defendant or defendants, and shall set forth in clear and concise terms the nature and substance of the corroborative fact.

1 If the corroborative fact is evidenced by the statement of a witness
2 or the contents of a document, the certificate shall declare that the
3 attorney has personal knowledge of the statement of the witness
4 or of the contents of the document, and the identity and location
5 of the witness or document shall be included in the certificate. For
6 purposes of this section, a fact is corroborative of an allegation if
7 it confirms or supports the allegation. The opinion of any mental
8 health practitioner concerning the plaintiff shall not constitute a
9 corroborative fact for purposes of this section.

10 (2) If the application to name a defendant is made before that
11 defendant's appearance in the action, neither the application nor
12 the certificate of corroborative fact by the attorney shall be served
13 on the defendant or defendants, nor on any other party or their
14 counsel of record.

15 (3) If the application to name a defendant is made after that
16 defendant's appearance in the action, the application shall be served
17 on all parties and proof of service provided to the court, but the
18 certificate of corroborative fact by the attorney shall not be served
19 on any party or their counsel of record.

20 (m) The court shall review the application and the certificate of
21 corroborative fact in camera and, based solely on the certificate
22 and any reasonable inferences to be drawn from the certificate,
23 shall, if one or more facts corroborative of one or more of the
24 charging allegations against a defendant has been shown, order
25 that the complaint may be amended to substitute the name of the
26 defendant or defendants.

27 (n) The court shall keep under seal and confidential from the
28 public and all parties to the litigation, other than the plaintiff, any
29 and all certificates of corroborative fact filed pursuant to
30 subdivision (l).

31 (o) Upon the favorable conclusion of the litigation with respect
32 to any defendant for whom a certificate of merit was filed or for
33 whom a certificate of merit should have been filed pursuant to this
34 section, the court may, upon the motion of a party or upon the
35 court's own motion, verify compliance with this section by
36 requiring the attorney for the plaintiff who was required by
37 subdivision (f) to execute the certificate to reveal the name, address,
38 and telephone number of the person or persons consulted with
39 pursuant to subdivision (f) that were relied upon by the attorney
40 in preparation of the certificate of merit. The name, address, and

1 telephone number shall be disclosed to the trial judge in camera
2 and in the absence of the moving party. If the court finds there has
3 been a failure to comply with this section, the court may order a
4 party, a party's attorney, or both, to pay any reasonable expenses,
5 including attorney's fees, incurred by the defendant for whom a
6 certificate of merit should have been filed.

7 (p) This section applies to any claim in which the childhood
8 sexual assault occurred on and after January 1, 2024.
9 Notwithstanding any other law, a claim for damages based on
10 conduct described in paragraphs (1) through (3), inclusive, of
11 subdivision (a), in which the childhood sexual assault occurred on
12 or before December 31, 2023 may only be commenced pursuant
13 to the applicable statute of limitations set forth in existing law as
14 it read on December 31, 2023.

15 (q) Notwithstanding any other law, including Chapter 1 of Part
16 3 of Division 3.6 of Title 1 of the Government Code (commencing
17 with Section 900) and Chapter 2 of Part 3 of Division 3.6 of Title
18 1 of the Government Code (commencing with Section 910), a
19 claim for damages described in paragraphs (1) through (3),
20 inclusive, of subdivision (a), is not required to be presented to any
21 government entity prior to the commencement of an action.

22 (r) *Any action filed pursuant to subparagraphs (2) or (3) of*
23 *subdivision (a) which results in a dismissal without prejudice shall*
24 *not be refiled if 5 years or more have passed from the original*
25 *filing date of such action.*

26 SEC. 2. *Section 864 of the Code of Civil Procedure is amended*
27 *to read:*

28 864. (a) For purposes of this chapter, bonds, warrants,
29 contracts, obligations, and evidences of indebtedness shall be
30 deemed to be in existence upon their authorization. Bonds and
31 warrants shall be deemed authorized as of the date of adoption by
32 the governing body of the public agency of a resolution or
33 ordinance authorizing their issuance, and contracts shall be deemed
34 authorized as of the date of adoption by the governing body of the
35 public agency of a resolution or ordinance approving the contract
36 and authorizing its execution.

37 (b) *For purposes of determining the validity pursuant to this*
38 *chapter of any issuance or proposed issuance of refunding bonds*
39 *pursuant to Articles 10 (commencing with Section 53570) and 11*
40 *(commencing with Section 53580) of Chapter 3 of Part 1 of*

1 *Division 2 of Title 5 of the Government Code, or any other law,*
2 *to refund one or more tort action judgments entered against one*
3 *or more public agencies by one or more California state or federal*
4 *courts, and the legality and validity of all proceedings taken or*
5 *proposed to be taken in a resolution or ordinance adopted by the*
6 *public agency for the authorization, issuance, sale, and delivery*
7 *of the bonds, for entering into any credit reimbursement or other*
8 *agreement in connection therewith, for the use of the proceeds of*
9 *the bonds, and for the payment of principal and interest on the*
10 *bonds, each tort action judgment and the related refunding bonds,*
11 *credit reimbursement or other agreement shall be deemed to be*
12 *in existence as of the date of adoption by the governing body of*
13 *the public agency of such resolution or ordinance, without regard*
14 *to when the tort actions are filed or final judgments therein are*
15 *entered by the court, at one time or from time to time, if all of the*
16 *following conditions are satisfied:*

17 *(1) The judgments to be covered by the action under this chapter*
18 *are entered by the applicable court or courts not later than a final*
19 *date set forth in such resolution or ordinance.*

20 *(2) The public agency agrees in such resolution or ordinance*
21 *that all judgments refunded with the proceeds of the bonds are*
22 *final and not subject to appeal or further appeal, as applicable.*

23 *(3) The aggregate amount of judgments to be covered by the*
24 *action brought under this chapter shall not exceed an amount set*
25 *forth in such resolution or ordinance.*

26 *(4) No judgment will be refunded before it is entered by the*
27 *court against the public agency.*

28 *SEC. 3. Section 1038 of the Code of Civil Procedure is*
29 *amended to read:*

30 *1038. (a) In any civil proceeding under the Government Claims*
31 *Act (Division 3.6 (commencing with Section 810) of Title 1 of the*
32 *Government Code) or for express or implied indemnity or for*
33 *contribution in any civil action, the court, upon motion of the*
34 *defendant or cross-defendant, shall, at the time of the granting of*
35 *any objection by demurrer, summary judgment, motion for directed*
36 *verdict, motion for judgment under Section 631.8, or any nonsuit*
37 *dismissing the moving party other than the plaintiff, petitioner,*
38 *cross-complainant, or intervenor, or at a later time set forth by rule*
39 *of the Judicial Council adopted under Section 1034, determine*
40 *whether or not the plaintiff, petitioner, cross-complainant, or*

1 intervenor brought the proceeding with reasonable cause and in
2 the good faith belief that there was a justifiable controversy under
3 the facts and law which warranted the filing of the complaint,
4 petition, cross-complaint, or complaint or answer in intervention.
5 If the court should determine that the proceeding was not brought
6 in good faith and with reasonable cause, an additional issue shall
7 be decided as to the defense costs reasonably and necessarily
8 incurred by the party or parties opposing the proceeding, and the
9 court shall render judgment in favor of that party in the amount of
10 all reasonable and necessary defense costs, in addition to those
11 costs normally awarded to the prevailing party. An award of
12 defense costs under this section shall not be made except on notice
13 contained in a party's papers and an opportunity to be heard.

14 (b) "Defense costs," as used in this section, shall include
15 reasonable attorney's fees, expert witness fees, the expense of
16 services of experts, advisers, and consultants in defense of the
17 proceeding, and where reasonably and necessarily incurred in
18 defending the proceeding.

19 (c) This section shall be applicable only on motion made before
20 the discharge of the jury or entry of judgment, and any party
21 requesting the relief pursuant to this section waives any right to
22 seek damages for malicious prosecution. Failure to make the
23 motion shall not be deemed a waiver of the right to pursue a
24 malicious prosecution action.

25 (d) This section shall only apply if the defendant or
26 cross-defendant has made ~~a~~ *an objection by demurrer*, motion for
27 summary judgment, judgment under Section 631.8, directed
28 verdict, or nonsuit and the *demurrer or* motion is granted.

29 ~~SECTION 1. Section 1101.5 of the Civil Code is amended to~~
30 ~~read:~~

31 ~~1101.5. (a) On or before January 1, 2019, all noncompliant~~
32 ~~plumbing fixtures in any multifamily residential real property and~~
33 ~~in any commercial real property shall be replaced with~~
34 ~~water-conserving plumbing fixtures.~~

35 ~~(b) An owner or the owner's agent may enter the owner's~~
36 ~~property for the purpose of installing, repairing, testing, and~~
37 ~~maintaining water-conserving plumbing fixtures required by this~~
38 ~~section, consistent with notice requirements of Section 1954.~~

39 ~~(c) On and after January 1, 2019, the water-conserving plumbing~~
40 ~~fixtures required by this section shall be operating at the~~

1 manufacturer's rated water consumption at the time that the tenant
2 takes possession. A tenant shall be responsible for notifying the
3 owner or owner's agent if the tenant becomes aware that a
4 water-conserving plumbing fixture within the tenant's unit is not
5 operating at the manufacturer's rated water consumption. The
6 owner or owner's agent shall correct an inoperability in a
7 water-conserving plumbing fixture upon notice by the tenant or if
8 detected by the owner or the owner's agent.

9 (d) (1) On and after January 1, 2014, all noncompliant plumbing
10 fixtures in any multifamily residential real property and any
11 commercial real property shall be replaced with water-conserving
12 plumbing fixtures in the following circumstances:

13 (A) For building additions in which the sum of concurrent
14 building permits by the same permit applicant would increase the
15 floor area of the space in a building by more than 10 percent, the
16 building permit applicant shall replace all noncompliant plumbing
17 fixtures in the building.

18 (B) For building alterations or improvements in which the total
19 construction cost estimated in the building permit is greater than
20 one hundred fifty thousand dollars (\$150,000), the building permit
21 applicant shall replace all noncompliant plumbing fixtures that
22 service the specific area of the improvement.

23 (C) Notwithstanding subparagraph (A) or (B), for any alterations
24 or improvements to a room in a building that require a building
25 permit and that room contains any noncompliant plumbing fixtures,
26 the building permit applicant shall replace all noncompliant
27 plumbing fixtures in that room.

28 (2) Replacement of all noncompliant plumbing fixtures with
29 water-conserving plumbing fixtures, as described in paragraph (1),
30 shall be a condition for issuance of a certificate of final completion
31 and occupancy or final permit approval by the local building
32 department.

33 (e) On and after January 1, 2019, a seller or transferor of
34 multifamily residential real property or of commercial real property
35 shall disclose to the prospective purchaser or transferee, in writing,
36 the requirements of subdivision (a) and whether the property
37 includes any noncompliant plumbing fixtures. This disclosure may
38 be included in other transactional documents.