Assembly Bill No. 1174

CHAPTER 238

An act to amend Section 338 of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor July 31, 1995. Filed with Secretary of State August 1, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1174, Cunneen. Statute of limitations: environmental actions.

Existing law authorizes the Attorney General or the district attorney or city attorney to bring an action for civil penalties of up to $25,000 against any person who substantially diverts or obstructs the natural flow of, or deposits certain pollutants into, the state's waters, as specified.

Existing law prescribes a 3-year statute of limitations for the commencement of certain actions.

This bill would provide that the civil actions described above for the diversion, obstruction, or pollution of the state's waters, as specified, would be subject to that 3-year statute of limitations. The bill would also provide that these causes of action shall not be deemed to have accrued until the discovery by the agency bringing the action of the facts constituting the grounds for commencing the action.

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

SECTION 1. Section 338 of the Code of Civil Procedure is amended to read:

338. Within three years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for trespass upon or injury to real property.

(c) An action for taking, detaining, or injuring any goods or chattels, including actions for the specific recovery of personal property. The cause of action in the case of theft, as defined in Section 484 of the Penal Code, of any article of historical, interpretive, scientific, or artistic significance is not deemed to have accrued until the discovery of the whereabouts of the article by the aggrieved party, his or her agent, or the law enforcement agency which originally investigated the theft.

(d) An action for relief on the ground of fraud or mistake. The cause of action in that case is not to be deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

(e) An action upon a bond of a public official except any cause of action based on fraud or embezzlement is not to be deemed to have accrued until the discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action upon the bond.

(f) An action against a notary public on his or her bond or in his or her official capacity except that any cause of action based on malfeasance or misfeasance is not deemed to have accrued until discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action; provided, that any action based on malfeasance or misfeasance shall be commenced within one year from discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action or within three years from the performance of the notarial act giving rise to the action, whichever is later; and provided further, that any action against a notary public on his or her bond or in his or her official capacity shall be commenced within six years.

(g) An action for slander of title to real property.

(h) An action commenced under Section 17536 of the Business and Professions Code. The cause of action in that case shall not be deemed to have accrued until the discovery by the aggrieved party, the Attorney General, the district attorney, the county counsel, the city prosecutor, or the city attorney of the facts constituting grounds for commencing such an action.

(i) An action commenced under the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code). The cause of action in that case shall not be deemed to have accrued until the discovery by the State Water Resources Control Board or a regional water quality control board of the facts constituting grounds for commencing actions under their jurisdiction.

(j) An action to recover for physical damage to private property under Section 19 of Article I of the California Constitution.

(k) An action commenced under Division 26 (commencing with Section 39000) of the Health and Safety Code. These causes of action shall not be deemed to have accrued until the discovery by the State Air Resources Board or by a district, as defined in Section 39025 of the Health and Safety Code, of the facts constituting grounds for commencing the action under its jurisdiction.

(*l*) An action commenced under Section 1603.1 or 5650.1 of the Fish and Game Code. These causes of action shall not be deemed to have accrued until discovery by the agency bringing the action of the facts constituting the grounds for commencing the action.

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