

By: Eiland

H.B. No. 1288

A BILL TO BE ENTITLED

AN ACT

relating to property owner, contractor, and subcontractor liability for certain damages.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 95.001, Civil Practice and Remedies Code, is amended by adding Subdivision (4) to read as follows:

(4) "Improvement to real property" means a structure or part of a structure permanently affixed to or incorporated into real property. The term does not include scaffolding, ladders, or other temporary structures used in the construction, repair, renovation, or modification of the improvement.

SECTION 2. Section 95.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 95.003. LIABILITY FOR ACTS OF INDEPENDENT CONTRACTORS. A property owner is not liable for personal injury, death, or property damage to a contractor, subcontractor, or an employee of a contractor or subcontractor who constructs, repairs, renovates, or modifies an improvement to real property, including personal injury, death, or property damage arising from the failure to provide a safe workplace unless:

(1) the property owner exercises or retains some control over the manner in which the work is performed, other than the right to order the work to start or stop or to inspect progress or receive reports; and

1           (2) the property owner created or had actual or  
2 constructive knowledge of the danger or condition resulting in the  
3 personal injury, death, or property damage and failed to correct or  
4 adequately warn of the danger or condition.

5           SECTION 3. The change in law made by this Act applies only  
6 to a cause of action that accrues on or after the effective date of  
7 this Act. A cause of action that accrues before the effective date  
8 of this Act is governed by the law in effect immediately before that  
9 date, and that law is continued in effect for that purpose.

10           SECTION 4. This Act takes effect September 1, 2009.