

By: Pickett

H.B. No. 1642

Substitute the following for H.B. No. 1642:

By: Rodriguez of Travis

C.S.H.B. No. 1642

A BILL TO BE ENTITLED

AN ACT

relating to the rights, remedies, and liability of certain owners and operators of environmentally contaminated property in certain counties.

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

SECTION 1. Section 16.003(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) Except as provided by Sections 16.010, 16.0031, 16.0032, and 16.0045, a person must bring suit for trespass for injury to the estate or to the property of another, conversion of personal property, taking or detaining the personal property of another, personal injury, forcible entry and detainer, and forcible detainer not later than two years after the day the cause of action accrues.

SECTION 2. Subchapter A, Chapter 16, Civil Practice and Remedies Code, is amended by adding Section 16.0032 to read as follows:

Sec. 16.0032. ENVIRONMENTAL CONTAMINATION OF PROPERTY IN CERTAIN COUNTIES. (a) This section applies only to property that is:

(1) less than 10 acres in size; and  
(2) located in a county on the international border with a population of 800,000 or more.

(b) In an action for trespass for injury to the estate or to

1 the property of another resulting from environmental  
2 contamination, the cause of action accrues for purposes of Section  
3 16.003 on the 365th day after the date that a final remedial action  
4 report is approved by the Texas Commission on Environmental Quality  
5 or United States Environmental Protection Agency fully delineating  
6 and documenting the planned course of remediation as required under  
7 the applicable rule governing cleanup for the release.

8 (c) A person must bring suit for damages arising from an  
9 injury to property caused by environmental contamination  
10 originating from a source not located on or at the property not  
11 later than 25 years after the date the party responsible for the  
12 contamination is identified.

13 (d) Subsection (c) is a statute of repose and is independent  
14 of any other limitations period.

15 SECTION 3. Section 361.752, Health and Safety Code, is  
16 amended by adding Subsections (e) and (f) to read as follows:

17 (e) On the request of an innocent owner or operator of  
18 property described by Subsection (f), a court shall determine the  
19 amount of reasonable compensation under Subsection (c)(2) if the  
20 innocent owner or operator and the designated person are unable to  
21 agree on the compensation to be paid.

22 (f) Subsection (e) applies only to property that is:

23 (1) less than 10 acres in size; and

24 (2) located in a county on the international border  
25 with a population of 800,000 or more.

26 SECTION 4. Section 361.753, Health and Safety Code, is  
27 amended by adding Subsections (h) and (i) to read as follows:

1       (h) This subsection applies only to property described by  
2 Subsection (i). For purposes of Subsection (a), contamination  
3 originating from a pipeline transporting oil, gas, refined  
4 products, or other materials across the property does not make an  
5 applicant ineligible for a certificate unless:

6           (1) the applicant is also the owner or operator of the  
7 pipeline; or

8           (2) the commission determines that both the owner and  
9 operator of the pipeline are financially nonviable.

10       (i) Subsection (h) applies only to property that is:

11           (1) less than 10 acres in size; and

12           (2) located in a county on the international border  
13 with a population of 800,000 or more.

14       SECTION 5. Subchapter V, Chapter 361, Health and Safety  
15 Code, is amended by adding Section 361.755 to read as follows:

16       Sec. 361.755. RIGHTS OF PROPERTY OWNER REGARDING  
17 CONTAMINATION FROM OFF-SITE SOURCE IN CERTAIN COUNTIES. (a) This  
18 section applies only to property that is:

19           (1) less than 10 acres in size; and

20           (2) located in a county on the international border  
21 with a population of 800,000 or more.

22       (b) If property described by Subsection (a) has been  
23 contaminated from an off-site source for more than 15 years and  
24 cleanup has not been achieved under the governing cleanup  
25 requirements for the release, the party or parties responsible for  
26 the cleanup shall compensate the property owner for the reduced  
27 property value, cleanup costs, and any other damages resulting from

1 the contamination.

2           SECTION 6. (a) Section 16.003, Civil Practice and Remedies  
3 Code, as amended by this Act, and Section 16.0032, Civil Practice  
4 and Remedies Code, as added by this Act, apply only to a cause of  
5 action that accrues on or after the effective date of this Act. A  
6 cause of action that accrues before the effective date of this Act  
7 is governed by the law in effect immediately before that date, and  
8 that law is continued in effect for that purpose.

9           (b) Section 361.752, Health and Safety Code, as amended by  
10 this Act, applies only to an agreement for reasonable access  
11 entered into on or after the effective date of this Act. An  
12 agreement for reasonable access entered into before the effective  
13 date of this Act is governed by the law in effect when the agreement  
14 was entered into, and the former law is continued in effect for that  
15 purpose.

16           (c) Section 361.753, Health and Safety Code, as amended by  
17 this Act, applies only to an application to obtain a certificate  
18 confirming that the person is an innocent owner or operator  
19 submitted on or after the effective date of this Act. An  
20 application submitted before the effective date of this Act is  
21 governed by the law in effect when the application was submitted,  
22 and the former law is continued in effect for that purpose.

23           (d) Section 361.755, Health and Safety Code, as added by  
24 this Act, applies to property that has been contaminated from an  
25 off-site source regardless of whether the contamination occurred  
26 on, before, or after the effective date of this Act.

27           SECTION 7. This Act takes effect September 1, 2015.