

By: Holland

H.B. No. 1737

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the statutes of limitation and repose for certain
3 claims involving the construction or repair of an improvement to
4 real property or equipment attached to real property.

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

6 SECTION 1. Section 16.008, Civil Practice and Remedies
7 Code, is amended by adding Subsections (a-1) and (a-2) and amending
8 Subsections (a) and (c) to read as follows:

9 (a) In this section:

10 (1) "Latent deficiency" means a defective or unsafe
11 condition that is not apparent by reasonable inspection; and

12 (2) "Patent deficiency" means a defective or unsafe
13 condition that is apparent by reasonable inspection.

14 (a-1) A person may not [~~must~~] bring suit for damages for a
15 claim listed in Subsection (b) against a registered or licensed
16 architect, engineer, interior designer, or landscape architect in
17 this state, who designs, plans, or inspects the construction of an
18 improvement to real property or equipment attached to real
19 property [~~not~~] later than eight [~~10~~] years after the substantial
20 completion of the improvement or the beginning of operation of the
21 equipment in an action arising out of a defective or unsafe
22 condition of the real property, the improvement, or the equipment.

23 (a-2) A person must bring suit for damages for a claim
24 listed in Subsection (b) against a registered or licensed

1 architect, engineer, interior designer, or landscape architect in
2 this state, who designs, plans, or inspects the construction of an
3 improvement to real property or equipment attached to real
4 property, not later than four years after:

5 (1) the substantial completion of the improvement or
6 the beginning of operation of the equipment in an action arising out
7 of a patent deficiency in the real property, the improvement, or the
8 equipment;

9 (2) the person discovers a latent deficiency in the
10 real property, improvement, or equipment; or

11 (3) a latent deficiency in the real property,
12 improvement, or equipment becomes a patent deficiency.

13 (c) If the claimant presents a written claim for damages,
14 contribution, or indemnity to the architect, engineer, interior
15 designer, or landscape architect within the applicable ~~[10-year]~~
16 limitations period, the period is extended for two years from the
17 day the claim is presented.

18 SECTION 2. Section 16.009, Civil Practice and Remedies
19 Code, is amended by adding Subsections (a-1) and (a-2) and amending
20 Subsections (a), (c), and (d) to read as follows:

21 (a) In this section:

22 (1) "Latent deficiency" means a defective or unsafe
23 condition that is not apparent by reasonable inspection; and

24 (2) "Patent deficiency" means a defective or unsafe
25 condition that is apparent by reasonable inspection.

26 (a-1) A claimant may not ~~[must]~~ bring suit for damages for a
27 claim listed in Subsection (b) against a person who constructs or

1 repairs an improvement to real property [~~not~~] later than eight [~~10~~]
2 years after the substantial completion of the improvement in an
3 action arising out of a defective or unsafe condition of the real
4 property or a deficiency in the construction or repair of the
5 improvement.

6 (a-2) A person must bring suit for damages for a claim
7 listed in Subsection (b) against a person who constructs or repairs
8 an improvement to real property not later than four years after:

9 (1) the substantial completion of the improvement in
10 an action arising out of a patent deficiency in the real property or
11 the construction or repair of the improvement;

12 (2) the person discovers a latent deficiency in the
13 real property or the construction or repair of the improvement; or

14 (3) a latent deficiency in the real property or the
15 construction or repair of the improvement becomes a patent
16 deficiency.

17 (c) If the claimant presents a written claim for damages,
18 contribution, or indemnity to the person performing or furnishing
19 the construction or repair work during the applicable [~~10-year~~]
20 limitations period, the period is extended for two years from the
21 date the claim is presented.

22 (d) If the damage, injury, or death occurs during the last
23 [~~10th~~] year of the limitations period, the claimant may bring suit
24 not later than two years after the day the cause of action accrues.

25 SECTION 3. (a) Except as provided by this section, Section
26 [16.008](#), Civil Practice and Remedies Code, as amended by this Act,
27 applies to a cause of action arising out of a design, plan, or

1 inspection of the construction of an improvement to real property
2 or equipment attached to real property that commences on or after
3 the effective date of this Act. Section 16.008, Civil Practice and
4 Remedies Code, as amended by this Act, does not apply to a cause of
5 action arising out of a design, plan, or inspection that commences
6 on or after the effective date of this Act under a contract entered
7 into before that date.

8 (b) A cause of action arising out of a design, plan, or
9 inspection of the construction of an improvement to real property
10 or equipment attached to real property that commenced before the
11 effective date of this Act or arising out of a design, plan, or
12 inspection of the construction of an improvement to real property
13 or equipment attached to real property that commences on or after
14 the effective date of this Act under a contract entered into before
15 that date is governed by the law applicable to the cause of action
16 immediately before the effective date of this Act, and that law is
17 continued in effect for that purpose.

18 SECTION 4. (a) Except as provided by this section, Section
19 16.009, Civil Practice and Remedies Code, as amended by this Act,
20 applies to a cause of action arising out of construction or repair
21 of an improvement to real property that commences on or after the
22 effective date of this Act. Section 16.009, Civil Practice and
23 Remedies Code, as amended by this Act, does not apply to a cause of
24 action arising out of construction or repair of an improvement to
25 real property that commences on or after the effective date of this
26 Act under a contract entered into before that date.

27 (b) A cause of action arising out of construction or repair

1 of an improvement to real property that commenced before the
2 effective date of this Act or arising out of construction or repair
3 of an improvement to real property that commences on or after the
4 effective date of this Act under a contract entered into before that
5 date is governed by the law applicable to the cause of action
6 immediately before the effective date of this Act, and that law is
7 continued in effect for that purpose.

8 SECTION 5. This Act takes effect September 1, 2019.