By:  Holland, et al. (Senate Sponsor - Hughes) H.B. No. 3069

(In the Senate - Received from the House May 5, 2021; May 10, 2021, read first time and referred to Committee on State Affairs; May 18, 2021, reported favorably by the following vote: Yeas 9, Nays 0; May 18, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Hughes          X

Birdwell        X

Campbell        X

Hall            X

Lucio           X

Nelson          X

Powell          X

Schwertner      X

Zaffirini       X

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

(a-1)  A governmental entity must bring suit for damages for a claim listed in Subsection (b) against a registered or licensed architect, engineer, interior designer, or landscape architect in this state, who designs, plans, or inspects the construction of an improvement to real property or equipment attached to real property, not later than eight years after the substantial completion of the improvement or the beginning of operation of the equipment in an action arising out of a defective or unsafe condition of the real property, the improvement, or the equipment. This subsection does not apply to a claim arising out of:

(1)  a contract entered into by the Texas Department of Transportation;

(2)  a project that receives money from the state highway fund or a federal fund designated for highway and mass transit spending; or

(3)  a civil works project, as that term is defined under Section 2269.351, Government Code.

(c)  If the claimant presents a written claim for damages, contribution, or indemnity to the architect, engineer, interior designer, or landscape architect within the applicable [~~10-year~~] limitations period, the period is extended for:

(1)  two years from the date [~~day~~] the claim is presented, for a claim to which Subsection (a) applies; or

(2)  one year from the date the claim is presented, for a claim to which Subsection (a-1) applies.

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

(a)  Except as provided by Subsection (a-1), a [~~A~~] claimant must bring suit for damages for a claim listed in Subsection (b) against a person who constructs or repairs an improvement to real property not later than 10 years after the substantial completion of the improvement in an action arising out of a defective or unsafe condition of the real property or a deficiency in the construction or repair of the improvement.

(a-1)  A governmental entity must bring suit for damages for a claim listed in Subsection (b) against a person who constructs or repairs an improvement to real property not later than eight years after the substantial completion of the improvement in an action arising out of a defective or unsafe condition of the real property or a deficiency in the construction or repair of the improvement. This subsection does not apply to a claim arising out of:

(1)  a contract entered into by the Texas Department of Transportation;

(2)  a project that receives money from the state highway fund or a federal fund designated for highway and mass transit spending; or

(3)  a civil works project, as that term is defined under Section 2269.351, Government Code.

(c)  If the claimant presents a written claim for damages, contribution, or indemnity to the person performing or furnishing the construction or repair work during the applicable [~~10-year~~] limitations period, the period is extended for:

(1)  two years from the date the claim is presented, for a claim to which Subsection (a) applies; or

(2)  one year from the date the claim is presented, for a claim to which Subsection (a-1) applies.

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

SECTION 3.  (a)  Except as provided by this section, Section 16.008, Civil Practice and Remedies Code, as amended by this Act, applies to a cause of action arising out of a design, plan, or inspection of the construction of an improvement to real property or equipment attached to real property that commences on or after the effective date of this Act. Section 16.008, Civil Practice and Remedies Code, as amended by this Act, does not apply to a cause of action arising out of a design, plan, or inspection that commences on or after the effective date of this Act under a contract entered into before that date.

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

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

(b)  A cause of action arising out of construction or repair of an improvement to real property that commenced before the effective date of this Act or arising out of construction or repair of an improvement to real property that commences on or after the effective date of this Act under a contract entered into before that date is governed by the law applicable to the cause of action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

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